



Keeping Kids In School and Out of Courts

**A COLLECTION OF REPORTS TO INFORM THE
NATIONAL LEADERSHIP SUMMIT
ON SCHOOL-JUSTICE PARTNERSHIPS**

MARCH 11-13, 2012

SUMMIT CONVENER

Judith S. Kaye, former Chief Judge of the State of New York and Chair of the New York State Permanent Judicial Commission on Justice for Children, convened the National Leadership Summit on School-Justice Partnerships: Keeping Kids in School and Out of Court with a diverse group of partners and supporters.

SUMMIT ORGANIZER

The Summit was organized by the New York State Permanent Judicial Commission on Justice for Children.

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*Keeping Kids in School and Out of Court:
A Collection of Reports to Inform the National Leadership Summit
on School-Justice Partnerships*

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ACKNOWLEDGMENT

This publication is the result of a Call for Papers that was distributed nationwide by the New York State Permanent Judicial Commission on Justice for Children. Experts engaged in promoting practices and policies of our education and justice systems that can reduce the involvement of children in the justice system and help children succeed in school were invited to submit abstracts for consideration. These experts include academics, advocates, counselors, criminal justice experts, educators, judicial leaders, juvenile justice experts, legal experts, legislators, policymakers, program managers, public health specialists, researchers, school leaders and social workers.

Thank you to all who submitted an abstract. The magnitude and passion of the response to the Call for Papers demonstrate that the school-justice connection is a critical issue that is being addressed across disciplines, with the recognition that no one of us can resolve this issue alone.

To the contributing authors, thank you for making this publication a valuable resource for the Summit and the crucial work that follows.

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Keeping Kids in School and Out of Court: A Collection of Reports to Inform the National Leadership Summit on School Justice Partnerships was released at the ***National Leadership Summit on School Justice Partnerships: Keeping Kids in School and Out of Court***, where top state judicial and education officials came together in New York City on March 11-13, 2012, to discuss current juvenile justice and school discipline trends and data. Here are a few quick facts about the Summit.

- This unprecedented Summit marked a critical step forward in bringing meaningful change to the issues of school discipline and involvement in the juvenile and criminal justice systems.
- The Summit was convened by Hon. Judith Kaye, former Chief Judge of the State of New York and Chair of the New York State Permanent Judicial Commission on Justice for Children. As a prominent and passionate national voice on children and youth, Judge Kaye recognizes the power of judicial leadership in bringing partners together to collaborate on this important issue.
- The Summit was the first national gathering of the states' top education and judicial leaders to address the school-court connection. The willingness of these leaders to come together for this gathering underscores the growing prominence of this issue across the country.
- The Summit showcased a growing body of research and evidence-based alternatives that indicate suspensions and expulsions are not effective in improving student behavior and are significantly associated with drop out and involvement in the juvenile and criminal justice systems.
- The Summit highlighted cutting edge research, information and concrete strategies for improving disciplinary policy and practice and reducing referrals of minor misbehavior to juvenile and criminal courts.
- The Summit agenda was packed with the leading national researchers and speakers on the school-justice connection, including presentations on discipline and racial justice, the impact of trauma on student behavior, and the use of emerging practices such as Positive Behavior Intervention Systems and restorative justice to address student misbehavior within the school community. Speakers included many of the contributing authors, such as Daniel J. Losen, J.D., M. Ed., Director, Center for Civil Rights Remedies, The Civil Rights Project/Proyecto Derechos Civiles at UCLA; Jeffrey Sprague, Ph.D., University of Oregon Institute on Violence and Destructive Behavior; Hon. Steven

C. Teske, Juvenile Court of Clayton County, GA; Russell Skiba, Ph.D., Director of the Equity Project at the Center for Evaluation and Education Policy at Indiana University; as well as Marian Wright Edelman, founder and president of the Children's Defense Fund.

- This national convening coincides with mounting national interest in promoting policies and practices that keep kids in school and out of court. The issue moved to the forefront of debate with the announcement last summer by Attorney General Eric Holder and Secretary of Education Arne Duncan of the federal Supportive School Discipline Initiative. Additionally, the release of stunning data on widespread suspensions and expulsions in Texas and their negative effects on school children has solidified the urgent need to address the problem.
- The Summit gave states and local communities – such as Connecticut, Colorado and Baltimore, Maryland – a platform to share their lessons learned as they had begun taking steps to restrict the use of suspensions and expulsions to only the most serious offenses, such as weapon possession, in advance of policy guidance from the U.S. Departments of Justice and Education that is expected to caution school districts against the overuse of suspension, expulsion and arrest.
- The Summit gave participants an opportunity to develop relationships and communication channels for future information sharing within their states and with other states. These relationships are critical to the creation of effective cross-systems service delivery for children that prevents involvement in the justice system in the first place, but also gives those who do enter the system clear off-ramps as well as opportunities to thrive.
- School-justice partnerships will help improve outcomes for students through policies and practices that provide safe, respectful, supportive learning environments and promote positive student behavior; detect at-risk kids early and provide appropriate supports to enable them to achieve; and develop standards that hold children accountable for misbehaviors yet reserve extreme measures such as school expulsion and mandatory arrest for the most egregious cases.

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FOREWORD

REACHING A CRITICAL JUNCTURE FOR OUR KIDS: THE NEED TO REASSESS SCHOOL-JUSTICE PRACTICES

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There is no doubt that the safety of our children in our schools and in our communities is paramount. Incidents of school violence in the United States have motivated researchers and practitioners to explore and employ effective methodologies and strategies to promote safety in classrooms and schools. Still, issues of disruptive behavior top the list of concerns about education among teachers and parents.

The controversies about promoting safety and discipline in our schools are not about whether to address those issues, but rather how best to address them. For the last 20 years, fear for the welfare of our children has led us down a “no-nonsense” path of increased punishment and school exclusion in responding to school and community disruption through an approach that has come to be known as *zero tolerance*. These policies have dramatically increased the number of students put out of school for disciplinary purposes, and may be accelerating student contact with law enforcement. In today’s climate it seems school leaders are being asked to make a tough choice between keeping their school safe, and ensuring that all students have the continued opportunity to remain in the school learning environment.

The message of zero tolerance is intuitively appealing. When disruption and disorder threaten our schools and communities, it becomes increasingly easy to accept the notion that greater authority and force are necessary, in order to keep schools secure. Faced with the undeniable need to preserve the safety of our children, which of us would not engage in strong actions for their sake when left with no alternative? The presumption that increased force was necessary in our schools motivated the vast social experiment called zero tolerance, and has maintained it in one form or another for over 20 years.

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As that policy has been implemented in our schools and communities, however, its outcomes have led many to the realization that increasing punishment creates unintended consequences for children, families and communities. Moreover, the data that has emerged from this 20-year social experiment has overwhelmingly failed to demonstrate that school exclusion and increasing levels of punishment keep our schools and streets safer. Instead, the data suggest that suspension, expulsion and the increased use of law enforcement in school settings are themselves risk factors for a range of negative academic and life outcomes.

Are the goals of keeping our schools safe and keeping our students in school necessarily mutually exclusive? This volume, and the conference it emerged from, suggests that exclusionary, zero tolerance approaches to school discipline are not the best way to create a safe climate for learning. Increasingly, there are sound alternatives available to schools that can promote a safe school climate conducive to learning without removing large numbers of students from the opportunity to learn, or creating a more negative school climate through increased punishment. Where did the philosophy of zero tolerance come from? What do we know about its effects?

THE RISE OF ZERO TOLERANCE PHILOSOPHY

In the United States in the 1980s and 90s, fears concerning violence in schools and classrooms led to a dramatic increase in the implementation of so-called zero tolerance school discipline policies. The first recorded use of the term appears to be the reassignment of 40 sailors for drug usage on a submarine in the Norfolk, Virginia shipyard. Although the policy was controversial from the start, it also found influential supporters. Not long after this first incident, First Lady Nancy Reagan appeared with the Secretary of the Navy to highlight the new “no-nonsense” approach to drug enforcement. Indeed, one can imagine that it was the First Lady’s influence that moved the philosophy forward. By 1986, the Reagan Administration had proposed the first zero tolerance legislation for our nation’s schools, although the bill was defeated in Congress.

Yet in an era in which it was widely believed that schools were being overwhelmed by violence, the term zero tolerance resonated. Although data has since refuted this presumption—school violence has stayed relatively stable for 30 years—school districts in the late 1980’s and early 90’s began reframing their disciplinary policies to increase both the number and length of suspensions and expulsions for an ever-widening range of infractions, including fighting (or witnessing fights), wearing hats, even failure to

complete homework. The Clinton Administration and Congress soon jumped on the bandwagon, passing the Gun Free Schools Act in 1994, mandating a one calendar year expulsion for possession of firearms on school grounds.

At the core of zero tolerance philosophy and policy is the presumption that strong enforcement can act as a deterrent to other potentially disruptive students. Relying primarily upon school exclusion—out-of-school suspension and expulsion, and increases in security and police presence—the philosophy of zero tolerance is based on the “broken-window” theory. The theory is that communities must react to even minor disruptions in the social order with relatively strong force in order to “send a message” that certain behaviors will not be tolerated. Conversely, zero tolerance advocates believe that the failure to intervene in this way allows the cycle of disruption and violence to gain a solid toehold in our schools and community.

THE EFFECTS OF ZERO TOLERANCE

Since the philosophy of zero tolerance is to treat all incidents as worthy of severe intervention, it is not surprising that there have been literally thousands of incidents in the United States in which the punishment seems out of scale to the offense. News reports have documented a seemingly endless stream of cases in which students in U. S. schools have been suspended or expelled for bringing a knife in a lunchbox to cut chicken, pointing a gun drawn on paper at classmates, bringing a plastic axe to school as part of a Halloween costume or calling one’s mother stationed in Iraq on a cell phone. Some of these cases have led to community outrage, even lawsuits. Zero tolerance policies in Fairfax County, Virginia recently became the center of intense controversy when a successful student-athlete committed suicide after his removal from school for possession of a legal but controlled substance (St. George, 2010).

Similar unfortunate incidents have followed the rise of increased police presence in schools. In Toledo Ohio, a 14 year-old girl was arrested for a dress code violation when she came to school wearing a midriff shirt. In Palm Beach, Florida a 14 year-old student with disabilities was arrested after he was caught stealing \$2 from a classmate; although it was his first arrest, he was held for six weeks in an adult jail. The prosecutor filed adult felony charges but dropped them after a crew from 60 Minutes arrived at the boy’s hearing. In Chicago, Illinois in 2009, two dozen 11 to 15 year-old students in a charter school were arrested and detained overnight for a food fight.

These incidents, noteworthy enough to be highlighted in the media, may well be only the tip of the iceberg in terms of how exclusionary policies have changed school outcomes. The use of out-of-school suspension has approximately doubled since 1973, and almost tripled for Black students (Kim, Losen, & Hewett, 2010). In some school districts, these increases have been dramatic. In Chicago, Illinois after the implementation of zero tolerance in 1995, the number of expulsions rose from 81 to 1,000 three years later. Evidence suggests that the number of referrals to juvenile justice from schools is also increasing. In Pennsylvania, a 2010 report found that the number of referrals to juvenile justice has tripled over a period of seven years. In Florida, there were over 21,000 arrests and referrals of students to the state's Department of Juvenile Justice in 2007-2008. A large proportion of these school arrests or referrals are for misdemeanor offenses or disorderly conduct. This has resulted in complaints by judges who worry about clogging up the juvenile justice system and courts with behaviors that could have been managed in the classroom or at school.

HAS ZERO TOLERANCE MADE OUR SCHOOLS SAFER?

Clearly, the rise of a punishment- and exclusion-based philosophy of school discipline has created very real consequences for students. Yet given the responsibility of educators to keep students safe, more extreme approaches to school discipline might well be viewed as justified if those approaches could be shown to lead reliably to safer or more orderly school climates. Ultimately then, the most important question in examining zero tolerance is its effectiveness. Does the data show that zero tolerance has led to improvements in student behavior or school safety? Does it do so fairly and equitably for all students?

The question might be framed as one of costs and benefits. Does the removal of troublesome students from school reduce disruption and improve school climate enough to offset the inherent risks to educational opportunity and school bonding that come from removing students from the school setting? Three criteria that we might use in judging the effectiveness of school removal are consistency of implementation, outcomes, and fairness of application across groups. In all of these areas, the data are surprising, often disconfirming what we commonly expect.

CONSISTENCY OF IMPLEMENTATION

A basic rule of intervention effectiveness is that, for an intervention or procedure to be effective, it must be implemented in the way it was intended. Procedures such as conflict resolution, for example, demand a high level of training of both staff and students—if that training does not occur, it is almost certain the procedure will be less effective. This criterion – often referred to as *treatment fidelity* or *treatment integrity* – means that, unless an intervention can be implemented with some degree of consistency, it is impossible to know whether it could be effective.

One of the common findings of studies about the application of school suspension and expulsion is its high rate of inconsistency. Rates of suspension and expulsion vary dramatically across schools and school districts. Although one would presume that, as a more serious punishment, the use of school suspension would be reserved for more serious offenses, national data suggest that out-of-school suspension is used in response to a wide range of behavior from fighting to insubordination, and that only a small percentage of suspensions actually occur in response to behavior that threatens the safety or security of schools (Heaviside, Rowand, Williams, & Farris, 1998).

Further, although it is often presumed that suspension and expulsion are a direct response to student disruption, which student actually gets suspended or expelled is determined as much or more by the unique characteristics of that particular school. School climate and school governance, school demographics, and principal and teacher attitudes all play significant roles in determining the rate of school discipline. It is not surprising, for instance, that there are significantly higher rates of out-of-school suspension and expulsion at schools with principals who favor a zero tolerance approach (Skiba & Rausch, 2006).

In short, there appears to be a high rate of inconsistency in the use of school suspension and expulsion, and its application is based as much on school attributes as on student behavior. It must be assumed that this failure to demonstrate treatment integrity limits the effectiveness of application of zero tolerance suspensions and expulsions.

POOR OUTCOMES

No data exist to show that out-of-school suspensions and expulsions reduce disruption or improve school climate. If anything, disciplinary removal appears to have negative effects on student outcomes and the learning climate. A number of researchers have found that students suspended in late

elementary school are more likely to receive office referrals or suspensions in middle school than students who had not been suspended, prompting some researchers to conclude that suspension may act more as a reward than as a punishment for many students (Tobin, Sugai, & Colvin, 1996).

School rates of out-of-school suspension are moderately associated with lower graduation or higher dropout rates and greater contact with the juvenile justice system (Council of State Governments Justice Center, 2011). Indeed, it has been documented that suspension or expulsion are used by some administrators as a tool for “pushout,” in an attempt to rid the school of perceived troublemakers or those whose long-term chances of success at school are seen as low. Somewhat surprisingly, however, purging the school of such students does not improve school climate. Schools with higher rates of school suspension have been found to have lower parent and teacher ratings of school climate and school governance (American Psychological Association, 2008). Most importantly, schools with higher suspension and expulsion rates have been found to have lower outcomes on statewide test scores, regardless of student demographics (Davis & Jordan, 1994). It is difficult to argue that zero tolerance approaches are necessary in order to safeguard an orderly and effective learning climate when schools that use school exclusion more have poorer academic outcomes.

UNFAIR APPLICATION

One of the more consistent findings when looking at school discipline has been a high degree of racial disparity in school suspension and expulsion. In the United States, Black students are consistently suspended at rates two to three times higher than those for other students, and are similarly overrepresented in office referrals, expulsions and corporal punishment. Those disparities have increased over the last 30 years. Although it is widely believed that racial disproportionality in discipline is an issue of poverty, not race, the data say otherwise: Statistical analyses show that racial gaps in discipline are as likely or more likely to occur in rich, suburban districts as they are in poor, urban districts (Wallace, Goodkind, Wallace, & Bachman, 2008).

Nor do the data support the widely-held perception that Black students earn a higher rate of school exclusion by acting out more. If anything, studies have shown that Black students are punished more severely for less serious and more subjective infractions. One study, *The Color of Discipline*, explored the differences in infractions leading to office referrals between Black and White students. Where there were differences, White students were referred

more than Black students for more objective offenses, such as smoking and vandalism, while Black students were referred more than White students for more subjective offenses, such as disrespect or loitering (Skiba, Michael, Nardo, & Peterson, 2002). Researchers since then have consistently found that disciplinary disparities between Black and White students occur most often in subjective categories, like defiance and disrespect. Some evidence suggests that these disparities are caused at least in part by cultural mismatch or insufficient training in culturally responsive classroom management (Vavrus & Cole, 2002).

SUMMARY

Clearly, there was a hope in the United States in the 1990s that the increased surveillance and punishment associated with zero tolerance would send a strong message that could deter violence, crime and disruption in schools. Yet data that have accumulated since those policies were first implemented have been highly consistent in showing that such an approach simply has not worked in promoting improved student behavior or school safety. The American Psychological Association, in response to concerns about zero tolerance, commissioned a Zero Tolerance Task Force to study the approach and make recommendations. After a year of reviewing extensive research and documentation, that Task Force concluded that:

An examination of the evidence shows that zero tolerance policies as implemented have failed to achieve the goals of an effective system of school discipline...Zero tolerance has not been shown to improve school climate or school safety. Its application in suspension and expulsion has not proven an effective means of improving student behavior. It has not resolved, and indeed may have exacerbated, minority over-representation in school punishments. Zero tolerance policies as applied appear to run counter to our best knowledge of child development. By changing the relationship of education and juvenile justice, zero tolerance may shift the locus of discipline from relatively inexpensive actions in the school setting to the highly costly processes of arrest and incarceration. In so doing, zero tolerance policies have created unintended consequences for students, families, and communities (American Psychological Association, 2008).

Fortunately, during the last decade, there has also been considerable growth in knowledge of alternative strategies that appear to hold far more potential for reducing school disruption and ensuring the safety of students in school. What have we learned?

ALTERNATIVES TO ZERO TOLERANCE FOR SCHOOL CLIMATE AND SCHOOL SAFETY

Over five decades of study, behavioral psychologists have amassed data that should lead us to be highly skeptical of the effectiveness of punishment for changing the behavior of children. While setting limits is often an important part of many programs, the effects of punishment are always unpredictable. Rather than changing their behavior, children and youth are just as likely to respond to punishment with anger and aggression, or running away. As many school districts relying on suspension and expulsion have found, students eventually become immune to a certain level of punishment, requiring ever longer and more severe penalties. In schools and systems that rely solely on punishment to contain student behavior, more and more staff effort and resources are progressively devoted to a system that over time seems less and less effective. This is not an abstract problem: Every year, our reliance on school exclusion for discipline means that the educational career and life course of students across the nation are disrupted, moving them away from educational success and toward increased contact with the justice system. Fortunately, there are alternatives.

In the last 10 to 15 years, a comprehensive model of preventive discipline and behavior support has begun to emerge as the model most likely to successfully address issues of safety, disruption and discipline in schools. The approach is grounded in a primary prevention approach to mental health and behavior planning, targeting three levels of intervention simultaneously. First, school-wide prevention efforts, such as conflict resolution, improved classroom behavior management and parental involvement can help establish a climate less conducive to violence. At the second level, schools assess the seriousness of threats of violence and provide support to students who may be at-risk for violence and disruption through such interventions as mentoring, anger management screening and teaching pro-social skills. Finally, schools that are prepared to prevent violence have plans and procedures in place to effectively respond to disruptive or violent behaviors that do occur, including school-wide discipline plans, procedures for individual behavior plans and cross-system collaboration, especially between education and juvenile justice.

A preventive model of school discipline assumes that there is no one simple solution that can address all problems of school disruption. Rather, developing safe and orderly schools conducive to learning requires comprehensive, long-term planning, an array of effective strategies, and a partnership of education and juvenile justice, families, the community and students themselves. The following have been demonstrated to be effective components of a comprehensive program to ensure school safety:

1. SCHOOLWIDE BEHAVIORAL PLANNING AND IMPROVED CLASSROOM MANAGEMENT

School-wide discipline plans and behavior support teams, through programs such as Positive Behavior Interventions and Supports, build the consistency and communication that is critical in effective responses to school disruption. Appropriate strategies for handling misbehavior and teaching appropriate behavior can help prevent minor misbehavior from accelerating into a classroom or school crisis.

2. SOCIAL EMOTIONAL LEARNING

Social instructional approaches can help establish a non-violent school climate, by teaching students alternatives to violence for resolving interpersonal problems.

3. PARENT AND COMMUNITY INVOLVEMENT

Rather than blaming parents as the cause of discipline problems, schools, courts, and communities are beginning to find that it is more useful and effective to include parents as active partners in the process of behavior planning.

4. EARLY SCREENING FOR MENTAL HEALTH ISSUES

Early identification of students who may be at-risk for antisocial behavior or emotional disorders increases the chances of providing behavioral support to those students, so that unmet social and behavioral needs do not escalate into violence.

5. SCHOOL AND DISTRICT-WIDE DATA SYSTEMS

Improved data collection on discipline, office referrals, and law enforcement contact, and in particular the disaggregation of such data by race and ethnicity, can be used to evaluate school and district progress in handling both major and minor disciplinary incidents. Disaggregation of those data for those groups who have been disproportionately affected by school discipline is key in bringing equity to our school discipline systems.

6. EFFECTIVE AND ONGOING COLLABORATION

Reducing referrals to juvenile justice and school-based arrests will require collaboration between education, juvenile justice, and law enforcement in order to develop effective alternative strategies, such as restorative justice, that can contribute to school safety while reducing the risk of student involvement in the juvenile justice system.

The chapters in this book provide examples of these and other components of a more effective approach to school discipline and juvenile justice involvement:

- The volume opens with a synopsis by Dan Losen of his recently released report, *Discipline Policies, Successful Schools and Racial Justice*, which examines what we know about the risks created for children through racial disparities in out-of-school suspensions and explores the implications of that knowledge for civil rights enforcement and educational policy to improve safety, behavior and education outcomes.
- Jennifer Lynn-Whaley and Arianna Gard use findings from neuroscience research to show that a significant proportion of student misbehavior may be traced to neurologically-based development in self-control, suggesting that cognitive therapies may be much more effective in dealing with such issues than punishment and incarceration.
- Cheryl Smithgall and her colleagues note that many youth involved with the juvenile justice system have been exposed to trauma, and highlight three initiatives in which public systems have used trauma assessment to better meet students' behavioral and academic needs.

- Jeffrey Sprague and Vick Nishioka highlight the *Skills for Success* program, a systems-based intervention that combines both preventive school discipline with early identification and multidisciplinary services for youth at-risk for delinquency and school failure and explore the implementation of positive behavior support in alternative education settings.
- Mara Schiff and Gordon Bazemore describe restorative justice as a model alternative to punitive discipline policies and suggest it can redefine collaboration among justice professionals and educators in order to keep more students in school.
- Drawing upon one year of disciplinary data from one state, Jeffrey Sprague and his colleagues highlight disciplinary disparities among American Indian/Alaska Native students, who lose 4.5 times as many student days as White students due to disciplinary exclusions, and describe culturally responsive educational approaches and systems change efforts to alleviate those disparities.
- Anne Gallegos and Catherine Roller White focus on the increased risk faced by youth in foster care for poor outcomes in education and criminal justice involvement, and identify promising practices in school discipline, delinquency prevention and collaboration to prevent the crossover of youth in foster care into the criminal justice system.
- Jessica Feierman and her colleagues examine legislation introduced across the nation to decrease school referrals to the court through a range of methods, including identifying cases to be handled by the schools rather than the courts, improving schools' capacity to address disruptions, and clarifying the role of courts, probation and the schools in addressing student misconduct.
- Beginning with an overview of the impact of zero tolerance and increased police presence in schools, Judge Steven Teske and his colleagues examine a collaborative model of judicial leadership that has reduced school arrests and suspensions and developed alternatives to produce better outcomes for students, the school and the community.

- Noting increases in school arrests over the past 20 years despite decreases in school violence, Jeana Bracey and her colleagues describe recent advances in reducing in-school arrests in Connecticut through juvenile justice policy reform, advocacy and systems coordination, and changes to school-based practice and policy.
- Nancy Fishman and Dory Hack describe the potential for school-based youth courts to help students take responsibility for their behavior and promote safe and supportive learning environments, and highlight the promises and challenges of implementing a school-based youth courts in big city high schools.
- Jane Coggshall and her colleagues focus on the ways teachers and school leaders can alter the school-to-prison pipeline trajectory and provide examples of promising approaches and successful research-based initiatives.
- Jim Freeman discusses the importance of multi-stakeholder collaborative efforts to address the use of exclusionary discipline and justice-systems referrals, presenting the most common barriers to such efforts and suggestions for using targeted federal- and state-level investments to overcome those barriers.
- Julia Rollison and her colleagues document a national effort to improve coordination and service integration through the Safe Schools/Healthy Students Initiative, with an emphasis on safer and healthier schools and communities and the successful reintegration of students into schools.
- Reviewing the literature on truancy, Ken Seeley highlights the key importance of truancy as a risk factor for dropout and delinquency, and reviews what we know about truancy and dropout, prevention and intervention practices, and strategies for moving from research to practice.
- Finally, Howard Davidson and Keri Nash provide a historical overview of policies approved by the American Bar Association related to students in the public schools, especially with respect to discipline, truancy interventions, court interventions, special populations and school continuity.

In the nineteenth century, the dunce cap served as a potent symbol of the prevailing belief that failure to learn was a character flaw that could not be remediated. In the intervening years, we have come to understand that mistakes are simply the first step in the learning process and that, with perseverance and improved teaching, all students can learn. We are due for a similar realization with respect to student misbehavior. We can no longer afford simply to throw away those who transgress in our schools, especially when such exclusions continue to disproportionately impact those who have been marginalized throughout our history. The cost to society of an ever-expanding prison population, and to our communities of an increasing crime rate as more children spend more time out of school, is simply too great. Schools and communities across America are discovering that safety and academic opportunity are in no way mutually exclusive and that, by employing strategies to teach students what they need to know to get along in school and society, we strengthen our children, our systems and our communities. The chapters that follow are a roadmap to an approach that is both more humane and more effective.

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DISCIPLINE POLICIES, SUCCESSFUL SCHOOLS, RACIAL JUSTICE AND THE LAW

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A 2010 national report analyzing 2006 data collected by the U.S. Department of Education's Office for Civil Rights found that over 28 percent of Black male middle school students had been suspended at least once (Losen & Skiba, 2010). This is nearly three times the 10 percent rate for White males. Further, the Council of State Governments recently released a powerful longitudinal study of over one million students in Texas that revealed racial disparities in discipline persisted after controlling for 83 factors (Fabelo et al., 2011). That study also found that 83 percent of Black male students from the middle school cohorts they tracked through high-school, and 59 percent of White males from the same cohorts were removed from class at least once on "discretionary" discipline grounds between grades 7 and 12. However, Whites in Texas, when other contributing factors were controlled for, had higher rates of punishment for non-discretionary offenses reserved for the most serious and least subjective offenses, including bringing a weapon to school. The Texas study and several other well-established studies have shown that being suspended significantly increased the risk of dropping out and future contact with the juvenile justice system. This paper examines what we know about racial disparities in out-of-school suspensions in light of research on school discipline policy. The paper will explore the implications of this knowledge for civil rights enforcement and toward improving education policy intended to improve safety, behavior and educational outcomes.

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**For a more in-depth discussion of the data and data sources and a more extensive reference to the research, go to the full research paper. Losen, D.J. (2011). *Discipline Policies, Successful Schools, and Racial Justice*. Boulder, CO: National Education Policy Center. Retrieved on February 7, 2012 from <http://nepc.colorado.edu/publication/discipline-policies>.

In March of 2010, Secretary of Education Arne Duncan stood on the Edmund Pettis Bridge in Selma, Alabama and spoke on the importance of strengthening civil rights enforcement in education, highlighting racial disparities in the use of suspension and expulsion (Duncan, 2010). The Secretary suggested that students with disabilities and Black students, especially males, were suspended far more often than their White counterparts and often punished more severely for similar misdeeds. Subsequently, U.S. Attorney General Eric Holder and Secretary Duncan each addressed a conference of civil rights lawyers in Washington D.C. and affirmed their departments' commitment to remedying these disparities (Zehr, 2010). As part of their promised efforts, they indicated that new guidelines would be released to help states and districts determine whether their discipline policies may have an unlawful "disparate impact" under the U.S. Department of Education's Title VI regulations that are enforced by the Department's Office for Civil Rights (OCR).¹ The guidance is still forthcoming, but a simple application of the Title VI regulations to school discipline would read as follows:

Under the "disparate impact" theory, a method of discipline that is racially neutral on its face but has a discriminatory effect may be found unlawful absent sufficient justification such as educational necessity. Even if a school's action is justified, it still may be unlawful if equally effective, less discriminatory alternatives are available (Kim, Losen & Hewitt, 2010).

The disparate impact approach looks beyond the question of whether similarly situated students were disciplined differently along racial lines. By focusing on the impact, and by considering the policy justification and the alternatives, the legal framework enables enforcement agencies (and complainants) to address any discipline policy or practice that burdens children of color more than others. Concerns that unconscious racial bias may have influenced the adoption or implementation of an unnecessarily harsh disciplinary policy or practice can also be addressed if they produce racially disparate outcomes (Gladwell, 2005). Most important, proof of racial bias, conscious or unconscious, is not required under disparate impact analysis.

Although every district is unique, the data described below suggests that prong one of the legal analysis, whether a neutral policy or practice has a racially disparate negative impact, would often be met. Next, prong two

of the analysis, whether the policy or practice of suspending children is educationally necessary, is explored. Finally, in accord with the third prong of the legal framework, the research presented suggests that there may be equally effective and less discriminatory alternatives to frequent reliance on out-of-school suspensions. Together, the research presented raises Title VI regulatory compliance questions for school districts with large disparities in rates of out-of-school suspension that have not explored alternatives. Equally important, the research raises serious policy concerns about the frequent use of suspensions and suggests there are benefits to pursuing a range of viable alternatives to ensuring safe and effective educational environments.

WHAT IS KNOWN ABOUT POLICIES THAT REMOVE STUDENTS FROM SCHOOL?

Policies that result in out-of-school suspensions and expulsions are described as “exclusionary,” because they remove students from school. The emphasis of the analysis here is placed on “out-of-school” suspensions, rather than expulsions, in part, because schools expel rather than suspend the most serious offenders, such as students who pose a real danger to others. Further, the use of suspensions dwarfs expulsions by about 32 to 1. According to U.S. Department of Education’s (ED) 2006 Civil Rights Data Collection (CRDC), over 3.25 million students, approximately seven percent of all students enrolled in K-12, are estimated to have been suspended at least once (ED, 2011). That means that on average, for each day public schools are in session in America approximately 18,000 public school students are suspended out-of-school for at least a day. In contrast, on average, nation-wide, there are about 560 expulsions per day.

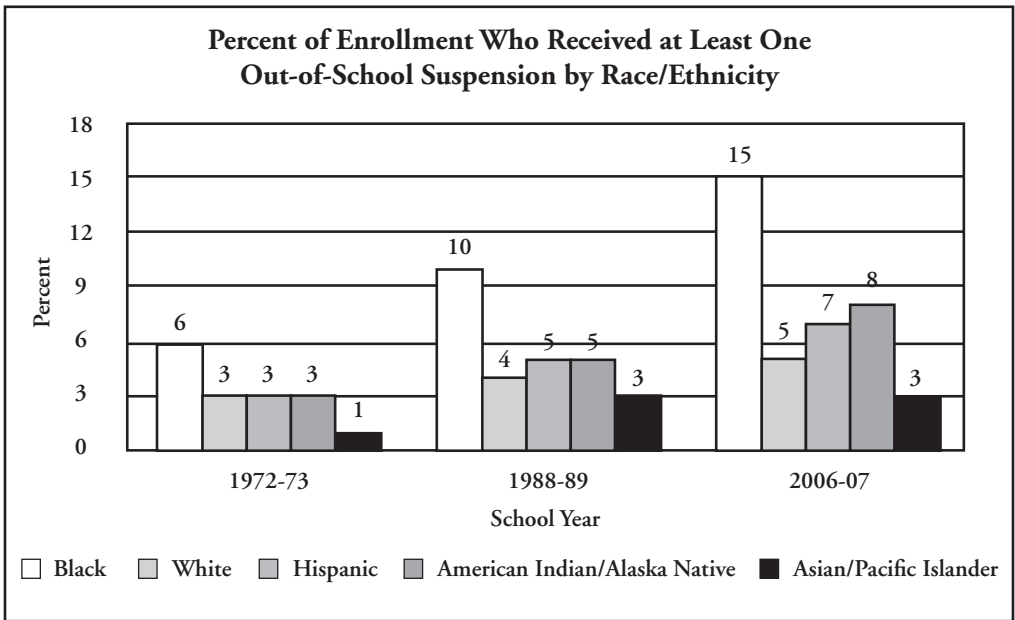
DATA FROM THE U.S. OFFICE FOR CIVIL RIGHTS (OCR) SHOWS LARGE INCREASES IN SUSPENSION RATES

Since 1968, the federal government has been collecting data on out-of-school suspension and expulsion (Hawley & Ready, 2003). OCR administers a biennial survey, which typically includes one third to one half of U.S. public schools and districts. In 2000, a nearly universal survey was conducted and another universal survey is scheduled for 2011-12. Schools are instructed to count each suspended student only once, even if the student received several suspensions. This head-count data can be used to determine what percentage of a given subgroup was suspended. Researchers point out, however, that the unduplicated data yield a conservative estimate of students’ time out-of-school because the data do not capture repeat suspensions or the length of the suspensions (Losen & Skiba, 2010).

Frequency and Racial Disparity

An analysis of OCR data describing the number of students, without duplication (not incidents), shows a large increase in K-12 suspension rates for all groups since the early 1970s, more than doubling since the early 1970s for all non-whites, but not for Whites (Losen & Skiba, 2010). Concurrently, the Black/White gap more than tripled, rising from a difference of three percentage points in the 1970s to over 10 percentage points in 2006. Approximately one out of every seven Black students enrolled was suspended at least once compared to about one out of every 20 White students.

FIGURE 1. Racial Impact of the Rising Use of Suspension

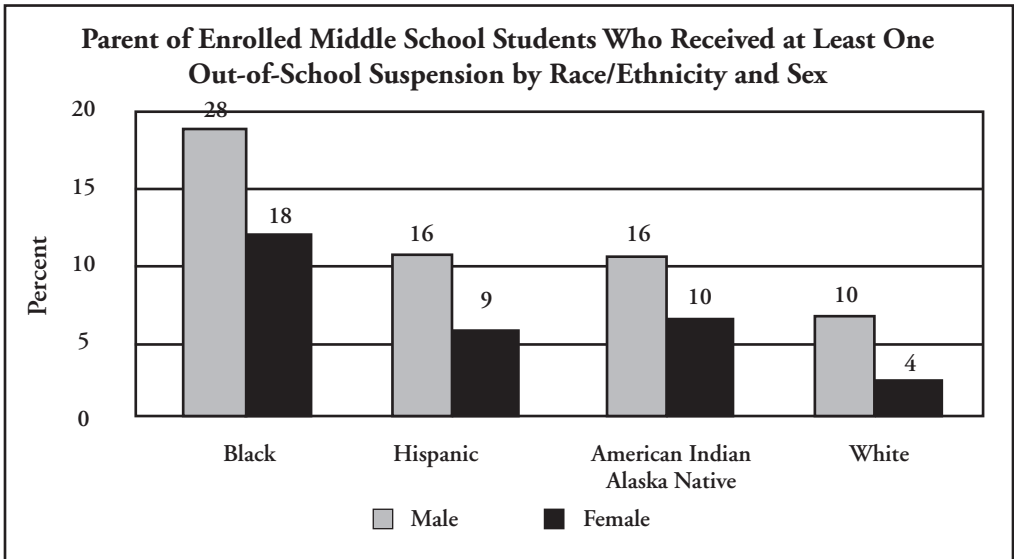


MIDDLE SCHOOL, RACE AND SEX

The 2010 report, *Suspended Education: Urban Middle Schools in Crisis*, revealed profound racial and gender disparities at the middle-school level, showing much higher rates than appear when aggregate K-12 data are analyzed (above) (Losen & Skiba, 2010). For example, based on OCR data from every state, 28 percent of Black males in middle school were suspended, compared to just 10 percent of White males. Moreover, 18 percent of Black females were suspended, compared to just 4 percent of White females. The report’s further analysis of data for 18 of the nation’s largest districts found that in 15 of them, at least 30 percent of all enrolled Black males were

suspended one or more times. Across these 18 urban districts, hundreds of individual schools had extraordinarily high suspension rates—50 percent or higher for Black males.

FIGURE 2. *Racial Disparities in Middle School Student Suspension Rates by Race/Ethnicity and Sex*



Racial disparities in discipline also appear within the subgroup of students with disabilities. Reported rates of suspensions of at least one day, showed that in ten states in 2007-2008 more than one in five Black students with disabilities were suspended, and three states (Nebraska, Wisconsin and Nevada) suspended over 30 percent of all Black students with disabilities, with Nebraska the highest at 37 percent. In contrast, in those same states, White students with disabilities were suspended at half to one fifth the rate of Blacks, with White rates never exceeding 12 percent (DAC, 2012).

IS THE FREQUENT USE OF SUSPENSION EDUCATIONALLY NECESSARY AND JUSTIFIABLE?

The data clearly demonstrate that some student subgroups receive a disproportionate number of exclusionary punishments. However, it may be useful to address a frequently suggested explanation for some of the largest disparities: that some children—especially Black children—simply misbehave more than others.

One problem with answering this question is that without neutral observers in classrooms, there is no objective baseline for comparison. One can imagine that a teacher's snap-judgment to refer a student for suspension may be influenced by a multitude of additional subjective considerations including the relationship the teacher has with the student, and with the child's parents. Both cultural and class differences may influence these relationships and judgments. If we assume that unconscious racial bias is pervasive, and varied in degrees, one would expect that teachers in the aggregate would have a greater tendency to perceive that Black students were more often misbehaving, and that this perceptual tendency would show up in higher punishments for Blacks for offenses that involve more subjective judgment (e.g., insubordination, disruption). Unconscious bias against Black students would unlikely manifest itself as blatant different treatment. Instead, one might expect to see subtle bias reflected in sizeable disparities in rates of discipline for certain racial groups over a year or more.

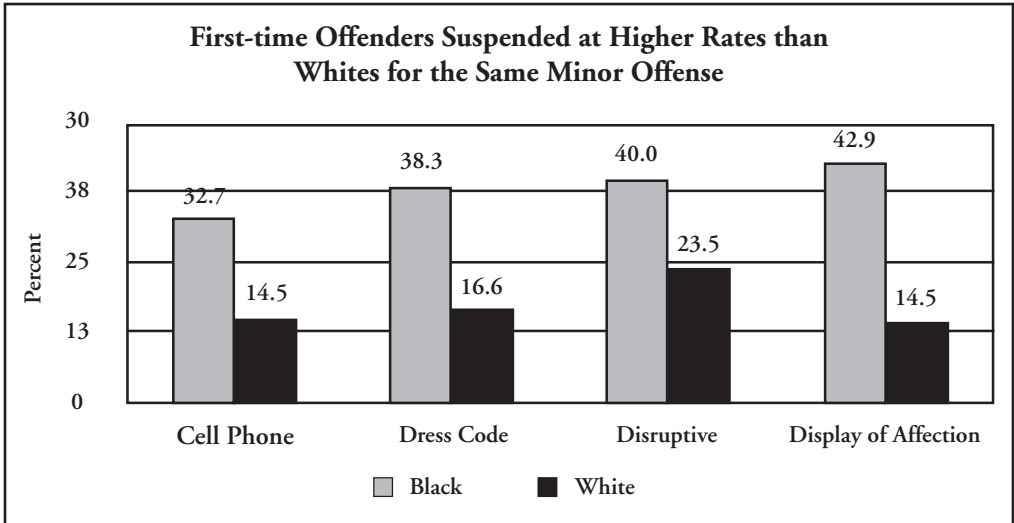
Ultimately, asserting that a higher frequency of misbehavior explains stark racial disparities in suspensions skirts the central question under "disparate impact." That is whether frequently suspending students out-of-school is a sound educational policy response to the wide range of misbehaviors at issue. That said, it is worth noting the evidence of different treatment from a variety of sources.

GREATER SUSPENSION RATES ARE NOT CLEARLY LINKED TO MORE FREQUENT OR MORE SERIOUS MISBEHAVIOR.

Research on student behavior, race and discipline has found no evidence that Black over-representation in school suspension is due to higher rates of misbehavior (Kelly, 2010). Strikingly, the Council of State Governments Report found that Black students were more likely to be disciplined for less serious "discretionary" offenses, and that when other factors were controlled for, higher percentages of White students were disciplined on more serious non-discretionary grounds, such as possessing drugs or carrying a weapon (Fabelo et al., 2011). This robust study controlled for 83 variables that made the racial comparison one of similarly situated students. Further, a 2010 study by Johns Hopkins researcher Dr. Katherine Bradshaw (2010), based on 21 schools, found that even when controlling for teacher ratings of student misbehavior, Black students were more likely to be sent to the office for disciplinary reasons. These, and numerous other empirical studies (Skiba et al., 2002; Skiba et al., 2009) suggest that Black students are being unfairly singled out when it comes to prosecuting misbehavior that requires more of a subjective evaluation.

Similar conclusions are suggested by an analysis of recent data from North Carolina concerning first-time offenders. As the sample below illustrates, Black first-time offenders in the State of North Carolina were far more likely than White first-time offenders to be suspended for minor offenses, including cell-phone use, disruptive behavior, disrespect and public displays of affection.

FIGURE 3. North Carolina Black/White Suspension Rates Suspensions for selected categories of infractions; first offense²



Data on first-time offenders, disaggregated by race and type of offense, is not generally accessible or reported to the public, but was obtained by lawyers who filed an OCR complaint against Wake County School District that asserted that district data, like the state data charted above, demonstrated that for the same category of offense, far higher percentages of Black first-time offenders received out-of-school suspensions than of White first-time offenders (NAACP et al., v. Wake County Board of Education et al., 2010).

Other research, also suggest that suspension rates are significantly influenced by factors other than differences in student misbehavior. For example, a statewide study of Indiana that controlled for race and poverty, concluded that the attitude of a school’s principal toward the use of suspension correlated highly with its use (Rausch & Skiba, 2005). Principals who believed frequent punishments helped improve behavior and who blamed behavioral problems on poor parenting and poverty also tended to suspend more students than those principals who strongly believed in enforcing school rules yet regarded suspension as a measure to be used sparingly. This evidence raises the possibility that schools with high levels of poverty and racial

isolation are more likely to embrace the kind of harsh discipline policy and school leadership embodied by the iconic bat-and-bullhorn principal Joe Clark. According to Time Magazine: “On a single day in his first year, he threw out 300 students for being tardy or absent and, he said, for disrupting the school. ‘Leeches and parasites,’ he calls such pupils. Over the next five years he tossed out hundreds more” (Bowen, 1988).

Clark’s methods, portrayed by Morgan Freeman in the popular movie *Lean on Me*, can be summarized as kicking out the bad kids so the good kids can learn. Despite the common-sense appeal, and near heroic status that Clark achieved, there is no evidence that Clark’s approach worked to improve the education of well-behaved students, let alone for the students removed from school (Biana & Moses, 1989). To the contrary, the schools run by the low suspending principals in Indiana had higher test scores after controlling for race and poverty (Tausch & Skiba, 2005).

Still, many believe a heavy reliance on out-of-school suspension is necessary to protect the learning environment for well-behaved students. Misperceptions about the use and benefits of suspending students may contribute to the public embrace of the practice.

THREE COMMON MISCONCEPTIONS USED TO JUSTIFY FREQUENT USE OF SUSPENSION

Contrary to popular belief, most suspensions are for minor and non-violent offenses, not for guns, drugs or serious violent acts. Rausch and Skiba (2006) reported that 95 percent of suspensions fell into two categories: disruptive behavior and other. Only 5 percent of all out-of-school suspensions in the state they studied were issued for disciplinary incidents typically considered serious or dangerous, such as possession of weapons or drugs. Similarly, the Texas study demonstrated that 97 percent of the disciplinary actions were discretionary, meted out for violations of schools’ conduct codes (Fabelo et al., 2011). Accordingly, the high rates of suspension for minor offenses raise questions about their justification, questions we might hesitate to pursue if they were responses to frequent dangerous or unlawful misbehavior.

Three reasons appear to account for the common use of out-of-school suspension or expulsion for non-violent or repeated school code violations:

- to improve the student's behavior in the future by getting the parents' attention and active involvement;
- to deter other students from misbehaving; and
- to ensure that the school environment is conducive to teaching and learning.

These speak to the second “educational necessity” prong of the “disparate impact” analysis.

OUT-OF-SCHOOL SUSPENSION TO GET PARENTAL ATTENTION

Ideally, if suspensions heightened parental awareness, they would foster a more effective collaborative home/school effort to teach appropriate behavior. Disruptive behavior would decrease improving the learning environment. In reality, to the extent that a child's persistent misbehavior is a signal of weaknesses in parenting or problem in the home environment, there is little reason to believe that removing a child from school to spend more time at home will improve behavior. Certainly, less extreme approaches can get parents to pay attention.

Moreover, the Academy of American Pediatrics' Committee on School Health (2003), which studied the impact of suspensions and expulsions, pointed out the following related issues:

Children with single parents are between 2 and 4 times as likely to be suspended or expelled from school as are children with both parents at home, even when controlling for other social and demographic factors...For students with major home-life stresses, academic suspension in turn provides yet another life stress that, when compounded with what is already occurring in their lives, may predispose them to even higher risks of behavioral problems (American Academy of Pediatrics, 2003).

In addition, poor and single parents may feel that they must leave a child home unsupervised or risk losing their employment. Thus, there seems little reason to accept the claim that exclusion is an effective way to secure the kind of productive parental support that will improve the behavior of those children most likely to be excluded from schools.

OUT-OF-SCHOOL SUSPENSIONS AS DETERRENCE

If frequent use of suspensions deters future misbehavior, we would expect to see a positive cycle, with high levels of suspension one year leading to improved behavior in subsequent years. Yet, according to the American Psychological Association's (2008) published review of the literature, there is no evidence that zero tolerance disciplinary policies, as applied to mundane and non-violent misbehavior, improve school safety or student behavior. Longitudinal studies have shown that students suspended in sixth grade are more likely to receive office referrals or suspensions by eighth grade, prompting some researchers to conclude that suspension may act more as a reinforcer than a punisher for inappropriate behavior (Tobin, Sugai & Colvin, 1998). Another study, using longitudinal data on students from 150 schools in Florida's Pinellas County, found a strong relationship for both Black and White students between the number of sixth-grade suspensions students received and the number of suspensions they subsequently received as seventh- and eighth graders (Raffaele, 2003). In sum, research offers no support for the theory that suspensions deter future misbehavior.

OUT-OF-SCHOOL SUSPENSION TO IMPROVE THE TEACHING AND LEARNING ENVIRONMENT

Certainly suspending disruptive children might improve teaching conditions by relieving some of the teacher's burden and stress. Yet the question posed by the data is not as simple as how to respond to a few difficult students generating most of the behavior problems. Rather, the observed "unduplicated" rates of suspension are on average 28 percent of the enrollment of Black males attending middle school.

While some students undoubtedly need a more restrictive educational setting, the need for such interventions on a case-by-case basis does not justify the high rates. If suspending large numbers of disruptive students out-of-school, with no guarantee of adult supervision, helped improve instruction and the learning environment, better academic results should be expected. But the research indicates that this is not the case. As stated above, research on the frequent use of school suspension has indicated that, after controlling for race and poverty, higher rates of out-of-school suspension correlate with lower achievement scores (Skiba & Rausch, 2006) or showed no academic benefits (Fabelo et al., 2011).

Moreover, qualitative researchers have documented how the same student can behave very differently in different classrooms (Harry & Klingner, 2006). Disruptions tend to increase or decrease with the skill of the teacher in providing engaging instruction and in managing the classroom, As engagement goes up, misbehavior and suspensions tend to go down (Osher et al., 2010). Many teachers say they would like help improving these areas. (Kratochwill, n.d.). Researchers also find a strong connection between effective classroom management and improved educational outcomes. And these skills can be learned and developed (Green, 2010). According to the American Psychological Association: “When applied correctly, effective classroom management principles can work across all subject areas and all developmental levels.... They can be expected to promote students’ self-regulation, reduce the incidence of misbehavior, and increase student productivity” (Kratochwill, n.d.).

NEGATIVE IMPACT ON STUDENTS WHO ARE REMOVED FROM SCHOOL

Since children are not expendable, we must be concerned about how disciplinary removal affects the removed students, and not just those who remain in class. One review of research exploring why students drop out found that, “[s]everal studies...have demonstrated how schools contribute to students’ involuntary departure by systematically excluding and discharging troublemakers and other problematic students” (Rumberger, 2004). Responding to this sort of evidence, states and districts are increasingly treating suspensions and other indicators of poor behavior as early warning indications of dropout risk (Vaznis, 2010).

Further, and as noted earlier, the exclusion of these students presents immediate risks to their success and well-being. In the words of the Academy of Pediatrics (2003):

Without the services of trained professionals (such as pediatricians, mental health professionals, and school counselors) and without a parent at home during the day, students with out-of-school suspensions and expulsions are far more likely to commit crimes. A Centers for Diseases Control and Prevention study found that when youth are not in school, they are more likely to become involved in a physical fight and to carry a weapon.... The lack of professional assistance at the time of exclusion from school, a time when a student most needs it, increases the risk of permanent school drop-out.

In fact, many in law enforcement have echoed the Academy's concerns about the repercussions from having high numbers of unsupervised suspended students (Fight Crime: Invest in Kids, 2009).

As the study from the Council of State Governments "Breaking School Rules" study definitively demonstrated, there are strong links between suspensions and dropping out, and heightened risks of juvenile justice involvement (Fabelo et al., 2011). These increased risks raise serious questions about the justification for suspending children, especially for relatively minor violations. This is particularly the case because most anticipated benefits of exclusion have not been documented.

POVERTY AND DISPARATE IMPACT THEORY

As a matter of civil rights law, the connection between poverty, race and misbehavior must be addressed. As a defense, school districts might simply argue that poverty, not race, is the determining factor underlying disparate impact. Even lacking a convincing policy justification, the regulatory framework does not protect against a disparate impact on students who are poor. Research does show that poverty correlates with an increased risk for suspension (Skiba et al., 2009). But according to the Council of State Governments' study (Fabelo et al., 2011), "when the relationship of socio-economic status to disproportionality in discipline has been explored directly, race continues to make a significant contribution ... independent of socioeconomic status."

It is also true that the high correlation of poverty and race makes it difficult to isolate race in relevant research (Losen & Orfield, 2002). Likewise, it is equally difficult to prove that poverty alone explains for all of the observed racial disparities. In an administrative compliance review context, the burden at this stage has traditionally fallen on the school district to prove that what appeared to be a racially disparate impact of a policy or practice can be explained sufficiently by poverty and not race. Assuming that a given school or district has not met the burden of proving that poverty caused the observed racially disparate impact at issue, yet has argued successfully that educational necessity drives the policy or practice, the remaining question is whether equally effective less discriminatory alternatives are available.

ARE BETTER ALTERNATIVES AVAILABLE?

Evidence does suggest the viability of alternatives to frequent disciplinary exclusion. In Baltimore public schools, for example, recent reforms illustrate one such alternative policy. As reported in *The New York Times* (Tavernise, 2010):

Alonso took on the culture of the schools, which relied heavily on suspensions for discipline, a practice Dr. Alonso strongly opposed. “Kids come as is,” he likes to say, “and it’s our job to engage them.”...Now school administrators have to get his deputy’s signature for any suspension longer than five days. This year, suspensions fell below 10,000, far fewer than the 26,000 the system gave out in 2004. ...Instead, schools handled discipline problems more through mediation, counseling and parent-teacher conferences, and offered incentives like sports and clubs. Mental health professionals were placed in every school with middle grades....

The Baltimore example suggests that alternatives to the harsh yet increasingly popular measures may prove more effective in creating school communities that are more productive and inclusive. Moreover, there is research evidence that suggests there are many effective alternatives that promote safe and orderly schools and reduce delinquency—while keeping students in school (Dwyer, Osher & Warger, 2008; Gagnon & Leone, 2001; Gottfredson, 1997). Some of those alternatives are described briefly below.

SYSTEM-WIDE POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS

System-wide Positive Behavior Interventions and Supports (alternatively abbreviated as either PBIS or SWPBS) is a well-established systemic and data-driven approach to improving school learning environments. Its emphasis is on changing underlying attitudes and policies concerning how behavior is addressed (Sugai & Horner, 2002). Several prominent civil rights organizations have been seeking greater federal support for PBIS, and several child advocacy groups point to successful PBIS-based interventions (Dignity in Schools Campaign, 2010; Advocates for Children and Youth, 2006).

PBIS consists of three different levels of intervention. The school-wide level affects every member of the school community. Its goal is to ensure a safe and effective learning environment by emphasizing appropriate student behavior and simultaneously working to reduce punitive disciplinary

measures. At this level, PBIS entails frequent monitoring of office referrals for discipline and setting school-wide goals for reducing these referrals. The system of interventions and supports is designed to shift the focus from the individual student as the primary problem to the “collective behaviors, working structures, and routines of educators” and to “the whole school as the unit of analysis” (Warren et al., 2006). Numerous studies have found positive results with school-wide PBIS (Lassenet et al., 2006; Metzler et al., 2001; Horner et al., 2009; Bradshaw et al., 2009; Muscott et al., 2008).

The second and third levels of intervention provide additional supports and services for smaller numbers of students who exhibit challenging behavior. These include interventions conducted in individual classrooms and focus more on specialized instruction of school expectations, skills training for students, or other strategies tailored to specific behaviors.

One study of an otherwise successfully implemented PBIS system, however, demonstrated that Black and Latino students nevertheless received more severe punishment for the category minor misbehavior and concluded that one cannot assume that interventions intended to improve behavior will be effective to the same degree for all groups (Skiba et al., 2009). The researchers suggested that PBIS might benefit by using data disaggregated by race, and that a more gender and disability conscious, culturally responsive PBIS approach is possible. PBIS systems do, in fact, enable users to produce school ethnicity reports. Although, underutilized, the use of the ethnicity reports by districts implementing PBIS appears to be rising (Vincent, 2008).

SUPPORT AND TRAINING FOR TEACHERS AND LEADERS

A wealth of research links effective classroom management with improved educational outcomes (Brophy, 1986). The significantly higher rates of suspensions as students move from elementary to middle school suggest that classroom management issues become greater as young children become adolescents and are more likely to challenge authority figures. Teachers serving adolescents may need more specialized training and greater understanding of adolescent development. Large racial differences in suspension rates also raise questions about whether training to bolster classroom management skills might be even more useful if it included components of multicultural sensitivity to make teachers aware that implicit bias may affect how they discipline their students. Likewise, the data suggest that teachers might benefit from increased support and training in working with students with disabilities, who are increasingly mainstreamed in general education classrooms.

Leadership training might also generate improvements. As noted earlier, variations in a leader’s approach to school discipline can make a profound difference in attendance and educational outcomes. Therefore, significant gains might be made toward both reducing school exclusion and improving academic progress if we replaced the attitude of kick-out proponents like Joe Clark with the attitude embraced by Baltimore’s superintendent Dr. Alonso: “Kids come as is, and it’s our job to engage them” (Tavernise, 2010). In addition to PBIS and professional development strategies, other methods include “ecological approaches to classroom management” and “social emotional learning.” Research suggests these might be most effective if implemented in combination with PBIS (Osher et al., 2010).

DISCUSSION: IMPLICATIONS FOR CHANGE

What is clear at this point is that policy decisions increasingly favoring harsher discipline are not justified by existing research. Suspending students reduces instructional time and often results in those most in need of adult supervision being left unsupervised. The observed racial disparities suggest the possibility of unlawful discrimination. Even without a perfect solution, the enforcement of the disparate impact standard can spur on educators to replace harmful policies and practices with more reasonable and less discriminatory research-based ones. While the legal approach may help alleviate problems in many districts, the disparate impact approach should also inform the broader policy changes that are likely needed.

IMPROVEMENT IN POLICY AND ASSESSMENT

There is an emerging consensus that an evaluation of public education should include multiple measures, not simply test results. Proposed indicators of effectiveness and improvement include an increased percentage of students earning a high school diploma, reductions in chronic absenteeism and grade retention, and an increasing number of students taking and passing advanced-level courses. The frequency of disciplinary exclusion, however, is often considered only as an indicator of school order and safety—as if student discipline had little connection to overarching educational goals.³

Even outside the context of an administrative law challenge, the disparate impact analysis can help policymakers see that frequent disciplinary removal is not likely educationally justifiable and is likely to have a negative impact on minority students and their families. Moreover, if policies concerning the

assessment of schools took into account analysis of disciplinary data like that discussed here, it could help strengthen our measures of school effectiveness and positively influence achievement.

It is also necessary to acknowledge that current discipline trends are not occurring in a vacuum. Federal policy currently provides an incentive for school leaders to remove low-achieving students from the cohort of students used to evaluate school performance. These lower achievers are more likely to be disruptive (Kelly, 2010). No Child Left Behind has imposed accountability measures for schools based primarily on student test results—but only for the test scores of students who attend a school for a full academic year (Public Law 107-110). There is, in fact, research supporting the possibility that frequent suspensions are used to avoid accountability for the test scores of lower achievers (Figlio, 2003), and civil rights advocates have expressed concern that test-driven accountability for schools encourages frequent suspension for minor offenses—that “push-out” low-achieving students, especially students of color (Advancement Project, 2010). This suggests that the disparate impact analysis should also be used to evaluate accountability policies and practices, not to mention resource distribution (Losen, 2004).

IMPROVEMENT IN ENFORCEMENT AND REPORTING

The reporting of Civil Rights data and application of disparate impact theory offer tools to ensure that specific subgroups of students do not suffer discrimination in their schools. Until recently, the evidence suggests that these tools had not been utilized to stop discriminatory practice.

To ensure stronger enforcement, it is essential that more information be made available to the public. The lack of annually and uniformly collected data, and the lack of comprehensive and coherent reports to the public about discipline at the federal, state, district and school levels make the current picture incomplete. Although the latest federal civil rights data collection will substantially fill some of the holes in our knowledge base, many gaps will remain as the CRDC collection is neither annual nor typically required of every school.

At the moment, it is exceedingly difficult for parents, civil rights advocates and policymakers to determine whether discrimination in discipline may be occurring in a particular school or district and to press for relief in cases where it is. Moreover, as new policies are adopted, it will be essential to monitor conditions to determine whether they are having the desired effects.

RECOMMENDATIONS

The current overemphasis on out-of-school suspension as a response to misbehavior is unwise and unproductive. While efforts to persuade policymakers to replace harmful or ineffective policies and practices are hampered by paucity in publicly reported information, enough is known to suggest several changes in the nation's present course. Therefore, and based on the research reviewed above, the following recommendations for improved policies and practices will help safeguard the civil rights of our school children and create more effective and equitable learning environments:

- Public school educators should routinely collect, reflect upon and publicly report data on school disciplinary removal. Reports at the state, district, and school level (where permissible) should include data disaggregated by race/ethnicity, gender and disability status in terms of numbers of each group disciplined. These reports should also include the percentage of each group that experiences suspension and expulsion, as well as disaggregated incidence data on the type of infraction and whether the infraction was a first offense.
- Civil rights enforcement agents should use the disparate impact standard of legal review as grounds to pursue remedies for the unjust and unnecessary removal of children from school.
- When Congress reauthorizes the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act, it should provide positive incentives for schools, districts and states to support students, teachers and school leaders in systemic improvements to classroom and behavior management where rates of disciplinary exclusion are high – even where disparities do not suggest unlawful discrimination.
- Federal and state policy should specify the rate of out-of-school suspensions as one of several key factors to be considered in assessments of school efficacy, especially for low-performing schools.
- Researchers should investigate connections between school discipline data and key outcomes such as achievement, graduation rates, teacher effectiveness, and college and career readiness.
- System-wide improvements should be pursued through better policies and practices at all levels—including an effort to improve teachers' skills in classroom and behavior management.

Ultimately, U.S. policymakers must find more effective ways to educate all of the nation's children, including those that may be challenging to engage.

NOTES

1. In the context of a desegregation case, disparate impact evidence is often considered relevant to the question of whether a district is maintaining a dual system and in some federal districts courts may consider the statistical disparity as a proxy for intent regarding the disparity as a vestige of the prior intentional discrimination. For a fuller discussion see Losen, Daniel J. & Christopher Edley, Jr. (2001). *Why Zero Tolerance is a Civil Rights Issue*, in *Zero Tolerance: Resisting the Drive for Punishment in Our Schools*, at p. 236, William Ayers, Rick Ayers & Bernardine Dohrn eds., New Press.
2. The data are an excerpt from a table that was provided to the author as an attachment to an email from Benita Jones and Elizabeth Haddix regarding data received by Jason Langberg, Equal Justice Fellow and Staff Attorney for Advocates for Children, Inc. on October 19, 2010. These data were obtained pursuant to a freedom of information act request to the State of North Carolina. Advocates for Children assisted in the discipline data analysis used by attorney Elizabeth Haddix in the filing of the administrative OCR complaint.
3. For example, the ESEA only addresses school discipline and behavior in the subpart of the act called the Safe and Drug Free Schools And Communities Act. The Safe and Drug Free Schools and Communities provisions of the ESEA (Title IV Part A § 4112 (c)(3)(ii)) requires that States provide information on a school-by-school basis on: truancy rates; the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State. ESEA, PUBLIC LAW 107-110—JAN. 8, 2002, § 4112(c)(3)(ii). Retrieved on December 12, 2010 from <http://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf>

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THE NEUROSCIENCE BEHIND MISBEHAVIOR: REIMAGINING HOW SCHOOLS DISCIPLINE YOUTH

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Findings from neuroscience research illustrate how normal adolescent development can be derailed by exposure to early life adversity. These harmful experiences rewire neural development and impair areas of the brain responsible for impulsivity and self-control. School discipline data show that most student misbehavior has at its core a lack of self-control. As a consequence of the last two decades of an increasingly punitive orientation toward school discipline, schools' increased reliance on arrests led to unprecedented numbers of youth becoming justice-involved. Evidence overwhelmingly supports the use of cognitive therapies (which leverage the window of neuroplasticity for youth) over the use of incarceration (which exacerbates deficits and often predicts future justice involvement).

Children who experience significant adversity early in life without consistent support from caring adults are more likely to drop out to school earlier, earn less, depend more on public assistance, adopt a range of unhealthy behaviors, and live shorter, less healthy lives.

(Center on the Developing Child)

A primary purpose of this paper is to highlight how potentially volatile the intersection between normal adolescent brain maturation and the consequences of exposure to early life adversity can be for youth. Of particular importance within the context of school discipline are the deficits related to impulsivity and self-control (Blair & Diamond, 2008). Young people with existing deficits in the areas of impulsivity and self-control are at an added disadvantage entering the developmental stage of adolescence, which by definition is wrought with challenges for even the most well-adjusted youth.

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These deficits result in an inability to regulate behavior and can lead to interpersonal conflict, challenges building and sustaining relationships and an increased likelihood of contact with police (Moffitt et al., 2011).

As youth with these impairments mature into young adults, the normal developmental stages of adolescence—which include risk-taking and increased reliance on peers—will further exacerbate these deficient areas. For many young people, impulsivity and low self-control associated with early life adversity combines with normal adolescent risk-taking to create a powder keg of potentially explosive behavior. At the heart of most school-based rule-breaking is a student's inability to control behavior and impulsivity (Gottfredson, 2001). While behavior should not be divorced from responsibility, these findings are vital to a developmentally informed understanding of adolescence and should guide school discipline policy. This paper aims to connect the research findings from neuroscience and highlight the relationship between early life adversity and adolescent brain development to the underlying causes of misbehavior. This paper also builds evidence to support changes in school discipline policy such that they reflect the most recent thinking on adolescent development and result in fewer young people becoming justice-involved. For youth who do become involved with the courts and the justice system, a developmental understanding of adolescence will help clarify potential sources of misbehavior in youth and offer avenues for intervention.

CHARACTERISTICS OF NORMAL ADOLESCENT RISK-TAKING

Adolescence is a transitional period of development marked by the onset of puberty, growing independence, increased reliance on peers and changes in brain maturation (Casey & Jones, 2010). Also characteristic of adolescence are risky behaviors such as unprotected sex, substance use and criminal behavior (Steinberg, 2010). While social influences account for a portion of the variance, developmental changes in brain structure and function during adolescence significantly impact reward-seeking and impulsive behaviors. Recent research in developmental neuroscience sheds light on the neural mechanisms involved in adolescent risk-taking. This research is critical to the collective understanding of teenage behavior in the context of appropriate responses to school-based rule-breaking.

Risk-taking is the result of normal reward-seeking behavior and should be anticipated as part of the normal developmental process (Dahl, 2011). Researchers propose a “dual systems model” to explain adolescent risk-taking

(Steinberg, 2010; Ernst, Pine, & Hardin, 2005). The model consists of a socio-emotional system and a cognitive control system, where the socio-emotional system explains reward-seeking behavior and the cognitive control system is responsible for impulse control. Adolescence marks the period where the structures comprising these two systems are developing at different paces, with reward-seeking areas preceding areas responsible for impulse control (Galvan et al., 2006). Consistently, research findings from neurobiology support the notion that risky behavior in adolescence is attributable, in part, to an immature cognitive control system that cannot regulate the more mature socio-emotional or reward-seeking system. Research from animal models and human brain-imaging studies supports this distinction (Casey, Duhoux, & Galvan, 2010; Casey, Getz, & Galvan, 2008).

Early adolescence marks the development of the socio-emotional system, reflecting an increase in reward-seeking behaviors that are normal during this stage of development (Casey & Jones, 2010). Localized in the limbic and paralimbic areas of the brain, the socio-emotional system includes the ventral striatum among other structures (Steinberg, 2010). Galvan et al. (2006) examined the relationship between reward processes and activity in the ventral striatum, an area of the brain previously linked to addiction and reward (Elliot, Friston, & Dolan, 2000). They operationalized reward-seeking as participants' response to monetary incentives, while simultaneously tracking their brain activity. They found that the ventral striatum was sensitive to varying magnitudes of monetary reward, and—critically—that the reward-related response was exaggerated in adolescents compared to both children and adults.

In a follow-up study, Galvan et al. (2007) found a positive association between activity in the ventral striatum and the likelihood of engaging in risky behaviors. Increased activity in the ventral striatum and other regions of the socio-emotional system result in increased reward-seeking (Ernst et al., 2005; Galvan et al., 2006). These reward-seeking behaviors peak between ages 10 and 15, decreasing or remaining stable thereafter (Casey, Duhoux, & Cohen, 2010; Steinberg et al., 2008). Given the brain's structure at this developmental stage, risky behaviors can be understood as a normal part of adolescence.

Structures in the cognitive control system responsible for impulse control and self-regulation do not develop fully until late adolescence (Casey et al., 2010; Casey & Jones, 2010; Luna et al., 2010). As the brain matures, executive functions such as planning, evaluating risks and rewards, and judgment and decision-making improve. Both synaptic pruning, which eliminates weak neural connections and strengthens stronger connections, and continued myelination of prefrontal brain regions, which enhances

connectivity between cortical and subcortical areas of the brain, lead to improved executive functioning and communication between the socio-emotional system and the cognitive control system. Adolescence marks the period during which the socio-emotional system is relatively more mature than the cognitive control system, resulting in reward-seeking without sufficient impulse control (Ernst, Pine, & Hardin, 2005). The implications of research findings that point to a dual systems model of risk-taking supports the notion that reward-seeking behavior is inherently normal for adolescents. As such, school discipline policy should be developmentally informed and rooted in the understanding of what falls into normal adolescent behavior.

ADOLESCENTS ARE MOTIVATED BY PEER PRESSURE

Extant research supports the long-held assumption that adolescents are more susceptible to peer influence than adults (Steinberg, 2009). This holds true with regard to substance use (Ennett, Bauman, Hussong, Faris, Foshee, & Cai, 2006; Steinberg, Fletcher, & Darling, 1994), delinquency (Agnew, 1991) and risk-taking (Gardner and Steinberg, 2005). As adolescents strive for independence, their desire for parental approval and guidance is overwhelmed by their desire for peer and social acceptance. Driven by a fear of rejection and a need to conform, adolescents tend to make riskier decisions.

In a study by Gardner et al. (2005), adolescents, college undergraduates and adults played a computer-simulated game of “Chicken.” As with other studies of risk-taking, the adolescent sample was more likely to take the riskier course of action than either the young adult or adult samples. Researchers also found significant effects of peer presence such that, in the presence of peers versus being alone, younger participants took more risks during the game, gave greater weight to the benefits rather than the costs of risky activities, and were more likely to select risky courses of action in the risky decision-making situations. The neural architecture of the adolescent brain predisposes adolescents towards risk-taking behaviors and peer influence heightens this vulnerability.

ADOLESCENTS PRIORITIZE REWARDS OVER CONSEQUENCES

Future orientation is the ability to weigh risks and rewards, assess consequences and project events into the future. During adolescence, the area of the brain responsible for future planning—the prefrontal cortex—is not fully developed. As this area of the brain matures, cognitive functions such as planning and decision-making improve. This research, a keystone in the 2005

Supreme Court decision (*Roper v. Simmons*) that banned the death penalty for juveniles, affirms that structural immaturity of the prefrontal cortex limits adolescents' ability to grasp the consequences of their actions.

As found by Gardner et al. (2005) and others (Galvan et al., 2007), adolescents give more weight to reward and respond to those rewards with greater risk-taking behaviors than adults. It appears that age-related differences in risk-taking are not a function of sensitivity to risks but, rather, sensitivity to rewards (Steinberg, 2009). In deciding whether to drive above the speed limit, both adults and adolescents will assess the risks equally (e.g., getting a ticket, crashing the vehicle), but adolescents will derive greater reward than adults (e.g., the thrill of speeding, peer acceptance and approval). Additionally, as adolescents lack the cognitive maturity to anticipate long-term consequences (e.g., fatality, financial consequences), their vulnerability to high-risk behavior is increased. Developmental neurobiology suggests that the risk-taking behaviors and impulsivity characteristic of adolescence are normal, a result of both biological and social factors. While normal, premature reward-seeking behavior combined with immature impulse control parallels a system without "checks and balances." Add peer influence, lack of future orientation, and reward sensitivity, and the adolescent becomes inherently vulnerable to risky decision-making with potentially adverse consequences.

EARLY LIFE ADVERSITY IMPACTS ADOLESCENT BEHAVIOR

In addition to the progression of normal brain development, exposure to adversity early on adds to the risk of negative behavioral outcomes. Until recently, very little was known about the role of brain development in determining behavioral outcomes. Over the last two decades, advances in neuroscience have allowed researchers to develop a deeper and more nuanced understanding of how early life adversity impacts different areas of the developing brain which ultimately influence behavior. Researchers are able to state with confidence that early life experiences are "written" into our bodies and impact the developing brain architecture that supports behavior, learning and health (Center on the Developing Child, 2007).

Harmful early life experiences, such as prenatal exposure to toxins, maternal depression and stress and childhood trauma, combine with genetic predispositions to heavily influence behavioral outcomes. These factors compound with normal adolescent risk-taking to put such school-aged children at higher risk for misbehavior. A growing body of literature has

linked these experiences with several negative life outcomes that reach across a broad spectrum of issues, from behavioral problems and mental health issues to increased risk of heart disease and asthma (Center on the Developing Child, 2010). Specifically, these experiences influence how well young people respond to stress, how well they regulate their emotions and the strength of their ability to control impulses and reasoning (McEwen, 2007). The impact of early, stress-related changes in brain circuitry have been shown in animal models to influence decision-making capabilities and alter emotional states and physiological functioning that lead to substance abuse, emotional instability, aggression and stress-related disorders (Isgor et al., 2004; Weder et al., 2009).

Studies show that prenatal exposure to harmful toxins, maternal depression and stress are harmful to fetal brain development and are correlated with lower levels of cognitive functioning and self-control (Center on the Developing Child, 2007; Davis & Sandman, 2010; Mackey, Raizada, & Bunge, in press). Researchers at the University of California, Berkeley examined the impact of prenatal exposure to organophosphate pesticides (widely used on crops) and found that every tenfold increase in measures of the pesticide during pregnancy corresponded to a 5.5 point drop in overall IQ scores in the 7-year old children studied (Bouchard et al., 2011). Results from this and other studies point to the clear fact that embryonic, fetal and childhood brain development is more susceptible to damage from toxins than the adult brain (Center for the Developing Child, 2010). Resulting cognitive changes, including drops in IQ, place children at an increased risk for behavioral problems in school. Maternal stress during pregnancy results in increased levels of cortisol that reach the developing fetus during gestation. Studies show that high doses of synthetic glucocorticoids (a stress hormone) results in documented emotional disturbances in childhood, dysregulated stress responses in infancy, neurodevelopmental delays in toddlers and impaired memory in school-aged children (Davis & Sandman, 2010). In one large-scale study, children with impairments such as low self-control exhibited more adult health problems, achieved lower levels of socio-economic status and were more likely to have a criminal record than children with high self-control (Moffitt et al., 2011).

Childhood trauma, including abuse and witnessing violence, causes fear and chronic anxiety that disrupts the stress response system and results in impaired development of the prefrontal cortex (Center for the Developing Child, 2010). As mentioned earlier, this area of the brain is crucial in planning, focusing attention, decision-making and impulse control. Traumatic experiences in childhood alter brain structure such that cognitive abilities are impaired and risk for misbehavior increases. Research examining the effect of maltreatment and

aggression in school-aged children found that the sample of mistreated children exhibited significantly higher antisocial behavior scores across aggression, rule-breaking and inattention subscales (Weder et al., 2009).

Cumulatively, this research illustrates how youth who have been exposed to trauma and stress during critical stages of development are more likely to navigate their worlds with significant deficits. These findings enrich our understanding of what adolescent risk-taking looks like, and how the impact of negative outcomes resulting from early life adversity impact normal development and ultimately behavior in school.

CURRENT RESPONSES TO DISCIPLINE DON'T WORK

After the Columbine school shootings in April of 1999, the dynamics of school discipline changed significantly. The collective consciousness relating to youth and youth violence began to shift with the prediction of the juvenile “superpredator” in the early 1990s and was underscored by Columbine and subsequent school shootings. These events ushered in a new philosophical orientation towards school discipline. Schools lost their innocence as they transitioned from places where principals made calls to parents and handled rule violations themselves, to an environment where students enter school through metal detectors and school-based police officers, often called School Resource Officers, routinely manage disciplinary action. The culture that resulted from this transition created an increasingly punitive environment where, under “zero tolerance” policies, violations from the negligible to the serious were more often met with the same heavy-handed response.

The consequences of this shift in orientation have far-reaching effects that can be distilled in the emergence of the phenomenon known as the “school-to-prison pipeline.” The number of suspensions, expulsions and school-based arrests which funnel unprecedented numbers of young people into the court and justice system—often for minor infractions—has skyrocketed over the last decade (Losen & Skiba, 2010; Advancement Project, 2010). Even more troubling is the overwhelming evidence that these exclusionary discipline practices have a disproportionate impact on youth of color (Sundius & Farnuth, 2008; Losen & Skiba, 2010; Losen, 2011). Nationally, suspension rates for African-American youth more than tripled since the 1970s relative to their White classmates, where by 2006, more than one out of every seven matriculating African-American youth had received at least one suspension (Losen, 2011).

However, the most compelling argument to reverse the direction of punitive policies is the research that demonstrates that the removal of students with behavior problems fails to improve safety or student behavior (Losen & Skiba, 2010). Therefore, responding to adolescent misbehavior with an array of punitive policies accomplishes neither the goals of protecting the student body nor reducing misconduct, and has little foundation for effective discipline. Furthermore, there is evidence that punitive responses imposed on youth within the juvenile justice system not only fail to reduce criminal behavior, but also effectively increase antisocial conduct and recidivism – tantamount to throwing a burn victim into fire (Henggeler & Schoenwald, 2011; Greenwood 2006; Steinberg, 2009; Holman & Ziedenberg, 2007; Fagan, 1996). Additional significant consequences include removing a young person from their family and disrupting the educational pathway. From an economic perspective, incarcerating large numbers of young people creates an unsustainable financial burden for states and counties (Advancement Project et al., 2010). There are, however, a number of interventions shown to be effective in addressing the range of adolescent needs.

RECOMMENDATIONS FOR EFFECTIVE INTERVENTIONS

At a fundamental level, changing the approach to student misbehavior from one of punishment and sanctions to one that reflects the rehabilitative capacity of young minds will go a long way toward improving student behavior, school climate and reducing court involvement. The authors of this paper recommend substituting existing disciplinary measures, including suspension, expulsion and arrest—which can postpone referral or ignore needed therapeutic treatment until the youth enters the justice system—with holistic interventions that are delivered at school. In roughly half of the country, when students are removed from school for disciplinary purposes, nothing fills that space and youth serve out the punishment at home (Fabelo et al., 2011). Every effort should be made to handle occasional antisocial or disruptive behavior within school boundaries, and in conjunction with school authorities. Young people with chronic discipline issues should be referred to an evidence-based treatment modality to be provided at school by trained professionals. Interventions at every level of severity should include mandatory parental or caregiver involvement as well as the participation of any other child welfare agency necessary to ensure appropriate intervention.

Only over the last 20 years have researchers, clinicians and criminal justice professionals developed and tested new interventions for juvenile offender populations. These evidence-based practices address multiple

aspects of the youth's social ecology, use behavioral intervention techniques and are rehabilitative rather than punitive (Henggeler et al., 2011).

Effective interventions are developmentally informed and seek to build the interpersonal and cognitive skills that adolescents need to navigate their environment. Advances in evidence-based practices combined with recent findings from developmental neuroscience regarding the normative increase in risk-taking behavior during adolescence provide additional encouragement for the treatment of antisocial conduct in youth (Galvan et al., 2007; Steinberg, 2008). To the extent that antisocial behavior carried out by justice-involved youth is an extension of misbehavior in school, effective interventions used in juvenile justice settings can be adapted to work within an education setting.

Given our understanding of the immature nature of the cognitive control system and encouraging research on brain plasticity and on the trainability of cognitive control, these interventions are opportunities to work with youth when their brains are malleable and before behavior patterns become harder to change (Buschkuehl, 2011; Klingberg, 2010; Mackey, Raizada, & Bunge, in press). Neuroplasticity refers to the brain and nervous system's ability to change in structure and function as a result of input from the environment. Research shows strong links between cognitive-behavioral therapy and neuroplasticity in the human brain (Roush, 2008). While adolescents are more inclined to risk-taking and reward-seeking behaviors, skill-building in immature areas can manage these developmentally normal impulses. As the brain matures from adolescence to adulthood, the individual will carry these new interpersonal, cognitive and life skills into future behavior, offering clinicians and criminal justice professionals an opportunity to alter behavior. The following section reviews evidence-based interventions found effective with delinquent youth.

Misbehavior in school might include aggressive behavior towards teachers and peers, substance use, truancy and poor academic performance. The risky nature of these behaviors calls for interventions that bolster problem-solving, planning, and decision-making. As research from neuroscience suggests, adolescence is a period where an immature cognitive control system cannot regulate a relatively more mature socio-emotional or reward-seeking system. Skill-building interventions that bolster impulse control have the effect of minimizing risky behaviors that may lead to school disciplinary measures. Researchers Terzian, Hamilton, & Ericson (2011) conducted an evaluation study of interventions designed to reduce internalizing behaviors or socio-emotional difficulties in adolescents. They found that skill-training approaches that build cognitive-behavioral skills and social skills were most effective in reducing internalizing symptoms.

Cognitive Behavioral Therapy (CBT) is an evidence-based psychosocial intervention used both independently and in conjunction with other treatment programs (Henggeler, 2011). CBT is a time-limited “talk therapy” that seeks to change inappropriate or maladaptive thoughts that lead to poor behavioral outcomes by building interpersonal, cognitive and life skills through homework assignments, active participation and instruction (Greenwood, 2006; Skowrya et al., 2006). In an evaluation of a CBT program with adjudicated juvenile delinquents residing in locked facilities, Bogestad, Kettler, & Hagan (2010) found significantly reduced levels of cognitive distortions across multiple subscales. CBT effectively targets cognitive distortions and alters how an individual interprets and responds to situations and experiences (Bogestad et al., 2010). In criminal justice settings, CBT may take the shape of aggression replacement training, which involves CBT methods across three components: anger control, behavioral skills and moral reasoning (Skowrya et al., 2006). In an evaluation study of a school-based CBT program for aggressive boys, the treated sample displayed lower levels of substance use, higher levels of self-esteem and better social problem-solving skills (Lochman, 1992). School-based CBT builds problem-solving, emotion regulation and decision-making skills. Effective interventions for more severely antisocial youth include Functional Family Therapy, Multisystem Therapy and Multi-Dimensional Treatment Foster Care (Henggeler et al., 2011). All of these treatment methods include CBT and target problem behaviors through multiple domains. Shown effective in many evaluation studies, these evidence-based practices provide additional support for the application of CBT in school disciplinary practices.

CONCLUSION

Adolescence is an exceedingly challenging period of the normal developmental process, which can become aggravated by exposure to early life adversity. Findings from the field of neuroscience illuminate the mechanics behind youthful transgression, offering clues on how to better serve this population of youth in the community as well as within the confines of schools. Programs that focus on building skills and changing maladaptive thought and behavior patterns demonstrate the greatest efficacy in reducing antisocial behavior among youth (Greenwood, 2008). Given the expanding literature on the harm done by punitive disciplinary policies, it is incumbent upon school educators, administrators, and support professionals as well as the judicial and justice system, to reverse these trends and incorporate evidence-based rehabilitation practices so that young people are afforded every opportunity to succeed.

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RESPONDING TO STUDENTS AFFECTED BY TRAUMA: COLLABORATION ACROSS PUBLIC SYSTEMS

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Many youth involved with the juvenile justice system have been exposed to trauma and also struggle in school. Yet, success in school may help to mitigate the effects of trauma exposure and reduce the likelihood of engaging in high-risk behaviors. Building on the research connecting trauma and learning, this article draws out lessons learned from three initiatives in which public systems attempt to assess trauma and meet both the behavioral health and academic needs of students. Promoting a shared view of child development and an understanding of the impact of trauma on that developmental trajectory is an important step toward implementing an effective, coordinated system of care for high-risk youth.

Youth with high-risk behaviors present a challenge to educational and juvenile justice systems. Behaviors such as fighting, running away, cutting, or substance abuse are some of the more overt challenges, but inability to pay attention, overreacting to slights, and poor self-regulation skills can be equally problematic. Although they have different mandates, schools, child welfare, mental health and substance abuse agencies often deal with youth who present with the same difficult high-risk behaviors. Many of these youth have poor educational outcomes, and it can be difficult to disentangle whether the emotional and behavioral problems contribute to or stem from academic difficulties as theories support both hypotheses (Altshuler, 1997; Ayasse, 1995; Stein, 1997).

Juvenile courts have not been consistent in how they deal with acting-out youth (Griffin, Germain, & Wilkerson, 2012). Under the United States Constitution, states are given parental powers (*parens patriae*) to care for such

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vulnerable citizens such as children. This is a basis for child protection courts. States are also given police powers to protect their citizens from dangerous individuals. This is a basis for criminal courts. The dilemma arises when a citizen is both vulnerable and dangerous. Does the state punish or rehabilitate such a young person? The U. S. Supreme Court recognizes both as legitimate goals when dealing with criminals, but leaves the decision up to legislatures and public policy.

The public has vacillated on the question of punishment versus rehabilitation. Although juvenile courts were originally created so that acting-out youth were not treated like criminal adults, juvenile laws were later modified to allow automatic transfers to adult court, for example. More recently, however, in 2005 (*Roper v. Simmons*, 2005) and 2010 (*Graham v. Florida*, 2010) juvenile justice decisions, the U.S. Supreme Court has acknowledged new findings in adolescent development in holding youth less culpable than adults. These findings focused on normal child and adolescent development and applied to all youth.

Though not yet cited by the Supreme Court, a new body of research is developing regarding experiences that disrupt this normal development. This research, which focuses on child trauma, includes both privately funded studies, such as the initial Adverse Childhood Experiences Studies (Felitti, Anda, Nordenberg, Williamson, Spitz, Edwards, Koss, & Marks, 1998) and publicly funded research, such as the projects of the National Child Traumatic Stress Network. Child trauma, “the emotionally painful or distressful experience of an event by a child that results in lasting mental and physical effects” (National Institute of Mental Health, cited in U.S. Department of Health and Human Services, 2005), can disrupt a child’s normal development and lead to physical, emotional, cognitive, learning and social problems. It can lead to earlier death. Behavioral manifestations of child trauma can include fighting, running away, cutting, substance abuse, inability to pay attention, overreacting to slights and poor self-regulation skills.

Findings from this growing body of research are being applied in the public child-serving sector as trauma-informed programs are introduced into educational, juvenile justice, child welfare, mental health and substance abuse programs. Each of these programs can help inform the other child-serving sectors and, in fact, the most effective approach will likely involve coordinating care for the difficult, high-risk youth that are served by multiple agencies.

A majority of high-risk youth served by public agencies has experienced trauma, and many of those youth may experience academic difficulties secondary to that trauma. The goal of this article is to illuminate the ways in which trauma impacts children across systems—education, child welfare

and juvenile justice—and to underscore the importance of both a trauma-informed perspective and a collaborative approach in grappling with the challenges that these children present. In the remainder of this section, we highlight some research findings and key issues pertaining to trauma and the youth served by public institutions. In the next section, we draw on three evaluations of federally funded projects to discuss the experiences of professionals working with traumatized youth in the education and child welfare system. These qualitative evaluations were conducted at various points in the implementation of the initiatives, and the quotations provided here are intended to foster dialogue about the need for and challenges in fostering cross-system collaboration and providing trauma-informed assessments and services. In the final section, we conclude with a discussion of the value of developing a shared perspective across child-serving systems and institutions about the impact of trauma on children’s development and well-being.

TRAUMA, LEARNING AND EDUCATIONAL EXPERIENCES OF YOUTH SERVED BY PUBLIC SYSTEMS

Though prevalence rates of child trauma for system-involved youth vary with the definition of “trauma” being used, recent research suggests those rates are high. For example, 97 percent of youth taken into state custody by the child welfare system in Illinois for abuse or neglect experienced a traumatic event, and 25 percent had an identifiable trauma symptom (Griffin, Martinovich, Gawron, & Lyons, 2009). Prevalence of trauma within the juvenile justice system is also high. Studies suggest that at least 75 percent of youth in the juvenile justice system have experienced traumatic victimization (Abram, Teplin, Longworth, McClelland, & Dulcan, 2004; Cauffman, Feldman, Waterman, & Steiner, 1998), and as many as 50 percent may have some post-traumatic stress symptoms (for reviews of trauma and PTSD prevalence rates among youth in juvenile justice, see Arroyo, 2001; Ford, Chapman, Hawke, & Albert, 2007; Griffin & Studzinski, 2010; Hennessy, Ford, Mahoney, Ko, & Siegfried, 2004). Exposure to trauma may lead to risk taking, acting out, breaking rules and other behaviors that bring youth into the juvenile justice system and, absent appropriate interventions, trauma symptoms may worsen as a result of experiences while in the juvenile justice (Ford et al., 2007) or other child-serving systems.

The life experiences of children involved with juvenile justice and child welfare systems represent a critical context for understanding their school

experiences and educational progress. The impact of trauma on brain development can include compromising the cognitive abilities and skills acquisition that are key to school performance. Children affected by trauma may struggle with language, concentration, understanding, and responding to classroom instruction, problem solving, abstractions, participation in group work, classroom transitions, forming relationships, regulating emotions and organizing material sequentially (Cole, O'Brien, Gadd, Ristuccia, Wallace, & Gregory, 2005). Research consistently demonstrates a link between trauma and cognitive functioning, including sustained attention, memory, executive functioning, and verbal abilities, and cognitive impairment puts children at risk for school disengagement and academic failure (Overstreet & Mathews, 2011).

Just as trauma may impair cognitive functioning, it may also lead to difficulties with social and behavioral functioning that manifest as often-misunderstood behavioral problems in the classroom. Students may display behaviors that are impulsive, aggressive, or defiant. They may withdraw in the classroom, become frustrated and despondent when they encounter academic difficulties and struggle in relationships with school personnel or peers (see Cole et al., 2005). Such behavioral difficulties may result in harsh disciplinary practices, involvement of the justice system, or school dropout—particularly as schools struggle to accurately assess and identify trauma and the associated symptoms. Depending on the setting, behaviors of children who have experienced trauma may not be recognized as distinct from those of children with other developmental delays or mental health conditions (National Child Traumatic Stress Network Schools Committee, 2008).

EVALUATION FINDINGS

In this section, we draw on three evaluations of programs in which public systems are attempting to assess trauma and meet both the behavioral health and academic needs of students. The first—a trauma-informed, comprehensive assessment program—helps the public child welfare system to accurately determine the circumstances and needs of the children in its care in order to provide the most appropriate services. The other two initiatives were implemented through schools as part of the public school district's efforts to provide behavioral and mental health services to students in schools in high-poverty, at-risk communities.

COMPREHENSIVE ASSESSMENTS: UNDERSTANDING CONNECTIONS BETWEEN TRAUMA AND EDUCATIONAL STRUGGLES

Traumatic experiences, family struggles and a child's school experiences are intertwined. These connections are illustrated in case records from a study of the Illinois Department of Children and Family Services' Integrated Assessment Program (Smithgall, Jarpe-Ratner, & Walker, 2010). The following excerpts from these assessments show how the life experiences of students can distract their attention from learning and contribute to behavioral problems in school settings.

[Child] exhibits difficulty with interpersonal relationships. She described being unable to get along with her teachers and feeling like they were blaming her for things which she did not do. She reported frequent worries about her safety and that of her siblings, and these worries were intrusive, distracting her from her schoolwork.

[Child] reported that she had a verbal altercation with a couple of young women that attend her school. [Child] reacted to something one of the girls said that reminded her of the abuse she had experienced with [father of sibling]. [Child] had a difficult time calming herself down and told the girls she would "kill them."

[Child] would run away from home after incidents of physical punishments and the last time he ran away...he lived in a cardboard box under a viaduct for over a month.... [Child] has been absent 78 days for the last completed semester. ...

[Child] did not attend school because he feared that the school would contact the police and he would be returned home... [Child] was suspended from school for breaking in to school, apparently to sleep while on run from home.

Adult and institutional responses to children's behavior can impact the extent to which a child develops the ability to cope with traumatic experiences; therefore, creating trauma-informed school systems is vital to helping students develop adaptive behaviors and supporting their academic progress.

Although focused on their educational experiences and status in school, the integrated assessments were conducted by child welfare caseworkers, and the evaluators could not determine from the records whether sufficient information about the child and family circumstances was provided to school professionals to allow them to place the behaviors in context and to understand learning and behavioral issues from a trauma-informed perspective. Conducting trauma-informed assessments in public agencies is an important first step. Collaborating across systems to ensure that all of the youth's needs are met is an essential next step.

IMPLEMENTING A THREE-TIERED APPROACH TO SCHOOL-BASED MENTAL HEALTH SERVICES

In 2007 and 2008, Chicago Public Schools launched two separate grant-funded initiatives that were designed to provide a set of social, emotional, and behavioral supports for students. The initiatives used a three-tier framework of universal supports:

- Tier 1. Social-emotional learning curricula and school-wide expectations
- Tier 2. Early intervention school-based services, such as small group counseling
- Tier 3. Intensive services that necessitated individual counseling or referrals to outside agencies with special expertise.

A set of evidence-based programs, including Second Step, Anger Coping and Cognitive Behavioral Interventions for Trauma in Schools (CBITS) were identified for use at Tiers 1 and 2, and implementation of the framework included teacher referrals and a team problem-solving process for students in Tiers 2 and 3. These initiatives incorporated several of the criteria Overstreet and Mathews (2011) list as being critical for a public health framework for school-based mental health services.

The following excerpts from interviews with school-based counselors and administrators provide insights into implementation as they worked to launch a coordinated school-based system to address the social emotional, behavioral and mental health needs of the students they served. These interviews were conducted as part of the evaluation for each initiative (Walker, 2010; Walker & Cusick, 2011).

Seeing Anger Rather than the Effects of Trauma

One theme that emerged from the evaluations was the need for a paradigm shift within the schools—from a focus on students' anger to a focus on the trauma students may have experienced that may have caused that anger. Anger is often expressed in observable behaviors, while the psychological trauma underlying an expression of anger is not. As evidenced by the comment below, a school administrator perceived a student as angry when he or she overreacted to a minor incident.

I think I have a lot [of] students who are just mentally unstable. Angry...they don't know how to handle issues. ... It's always me against everybody else ... Like, I have a lot of volatile kids who if you take their pencil they're screaming and yelling, "Somebody stole my pencil." ...it rolled off on the floor. I picked it up. I don't know who it belonged to; ... I have a lot of very angry children. [School administrator]

As Griffin and Studzinski (2010) note, however, it is important to understand that a traumatized child may exhibit reactions seemingly out of proportion to the situation or may misperceive cues as threatening, particularly if coming from authority figures. Viewed from a trauma-informed perspective, the student's response may have actually reflected feelings of being unsafe or even threatened. At least one school-based counselor felt that the tendency to perceive students as being angry was relatively common among school personnel.

A lot of times students who have gone through trauma, their teachers aren't always aware of it, or if they are aware of it, they minimize it and don't think it's a big deal and they just think, "Oh, this kid's just really angry." So we get tons of referrals for anger, but sometimes anger's just the symptom that's coming out from the actual trauma. So it's a little challenging. [School counselor]

The counselor's perception was consistent with the pattern that emerged in the referrals for school-based services. The number of students referred for anger management programs was three times the number of referrals for the evidenced-based trauma intervention available for students in Tier 2.

Providing Universal Supports

Creating a school environment with clear behavioral expectations, supportive relationships and established routines can help enhance a student's sense of safety. In 2005, Massachusetts Advocates for Children released *Helping Traumatized Children Learn*, in which they present a flexible framework for creating trauma-sensitive school environments (see Cole et al., 2005). Wolpow, Johnson, Hertel, and Kincaid (2009) build on this framework as well as that of the National Childhood Traumatic Stress Network Attachment, Self-Regulation and Competency (ARC) model, offering principles and strategies for instruction that further help schools create an environment of respect and compassion to support learning.

A compassionate or trauma-sensitive learning environment—in addition to enhancing a student's sense of safety—lays the foundation for other school-based services. One of the school-based counselors reflected on the connection she saw between universal supports at her school and the group-based work she was trying to do with students who needed a more targeted approach.

I cannot do my job the way I do my job if I do not have that universal support in place. I really couldn't. I'd be ineffective as a counselor. In groups, kids would be all over the place. Something as simple as taking them from the classroom to my office could be a disaster ... Kids come into my group prepared. They already have that universal foundation. They have the language. They understand the concepts. We're just reinforcing a lot of what they're doing in the classroom, but just in smaller groups.

Trauma-informed school environments benefit not only the children for whom exposure to trauma is identified as an immediate concern but also those whose trauma is not identified, and classmates who may be impacted by the sharing of experiences or behavioral responses of their trauma affected peers.

Working with Families

Challenging family circumstances may be one reason children are traumatized or otherwise affected by trauma, and some parents may need support in coping with and responding to their children's behaviors. One of the school-

based counselors talked about telling a mother that it is “not okay” for her son to be “punching holes in the walls at home” or acting very aggressively toward her. “You need to be safe and you need to feel safe and those are not normal okay behaviors that should happen at home.” She provides referrals for both the parent and student in such a case.

Although the family must often play a role in the response to their traumatized children’s behavior, schools generally do not have the expertise or capacity to engage hard-to-reach families. Schools often struggle with balancing the needs of one high-risk student and the needs of other students affected by his or her behaviors in the classroom.

We have, for some of the students, kind of tracked their behavior, and we know that there is a concern. One parent who says, yes, my child has been diagnosed with something, but I don’t give the child the medicine because I don’t want to medicate him because he acts a certain way when he’s medicated.... We’ve had no choice in some instances to give [them student] an out-of-school suspension, and the behavior continues. We talked to the grandparents, and the grandparents are saying they’re limited in the help that the parent will receive from them, so that’s an issue. So unfortunately because mom is not cooperative, the only thing we can deal with is out-of-school suspension as a means of trying to help the student because you have to help the student, but you have to protect the other students as well. [School administrator]

Families in crisis and may not seek out or voluntarily engage in school or community-based programs. Moreover, there may be few, if any, school-based programs designed to serve or intervene with hard-to-reach families. School outreach to families tends to reflect the universal purposes and capacities that are characteristic of education in general. On the other hand, juvenile justice, child welfare, and substance abuse and mental health agencies often work with hard-to-reach or involuntary clients and their families. This underscores the need for—and potential benefits of—collaborative discussion between the education system and other public systems about how best to avoid exclusionary practices and support the family in meeting students nonacademic needs and keeping them engaged in school.

DISCUSSION

Promoting a shared view of child development and an understanding of the impact of trauma on children's developmental trajectory is an important step toward implementing an effective, coordinated system of care for high-risk youth. High-risk youth served by public agencies have both academic and nonacademic needs that are intertwined. We can neither expect public agency caseworkers to educate youth nor educators to be therapists or social workers; cross-system collaboration is essential. Each system may develop its own trauma-informed assessment and service models; however, discussion among key stakeholders is important in achieving consensus regarding common concerns and intervention priorities.

As noted earlier, public sector child serving systems have struggled to deal with youth who act out. Some systems focus more on public safety and punishment while others focus on rehabilitation and support. Traditionally, the court system has focused more on public safety while schools have focused more on support. However, this is not always the case. Some schools focus more on public safety and punishment with policies such as zero tolerance. Some juvenile courts focus on becoming more trauma informed (Buffington, Dierkhising, & Marsh, 2010).

The education and juvenile justice systems overlap at multiple points. Arguably, coordinating their approach to acting out youth would be more beneficial to the youth and the systems that serve them. One critical point of overlap is when schools decide to refer an acting-out young person to the juvenile justice system. Another point centers on how youth are educated within the juvenile justice system. A third critical point of overlap concerns how youth are transitioned back into educational settings from juvenile justice. Each of these decisions dramatically affects the life of the youth.

A trauma-informed approach on the part of both the educational and juvenile justice settings could address not only issues of safety and risk behaviors but also issues of family and protective factors. For youth in juvenile detention or child welfare placements, the family is a large part of the environment a child may transition back to after return and/or exit. Family involvement is believed to be correlated with successful transition from correctional settings and reduced recidivism (Brock, Burrell, & Tulipano, 2006). A recent survey by the Center for Juvenile Justice Reform (2009) revealed family engagement to be both one of the most important and most difficult-to-address operational issues facing juvenile justice systems. For youth with mental health problems, family involvement may be critically important across all stages of the justice system, as families can

provide information necessary for the safety and stability of the youth and a supportive family may lessen a youth's anxiety and reinforce needed treatment (Osher & Hunt, 2002). The same is likely to be true when addressing trauma-specific needs. To the extent that treatment for trauma directly involves family members, engaging a child's family or others in his/her social environment will be important to the effectiveness of treatment (Saxe, Ellis, Fogler, & Navalta, 2012). As juvenile justice systems increasingly recognize both the importance of family and the need to address trauma, how to involve and engage families in trauma-focused assessment and treatment will become all the more critical to juvenile justice practice.

Research also suggests that the development of children's strengths—relationship permanence, education, family support, talents and interests—may be a key factor in mitigating the effects of trauma exposure and reducing the likelihood the child will engage in high-risk behaviors (Griffin et al., 2009). Schools can provide youth with stable, caring adult relationships and the opportunity to experience success and mastery of both academic content and social relationships.

There is a growing body of literature addressing the application of child trauma concepts to the field of juvenile justice (Maschi, Bradley, & Morgen, 2008; Mahoney, Ford, Ko, & Siegfried, 2004) and education (Perry, 2009). The efforts of the National Childhood Traumatic Stress Network and recent federal grants issued by the Administration on Children and Families will hopefully continue to spur knowledge development regarding the impact of trauma and the use of trauma assessments and interventions in public systems. Given the significant impact of trauma on learning and educational experiences, the field will benefit from further work examining how public agency assessments can inform educational interventions and how educational assessments can inform public agency interventions.

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SKILLS FOR SUCCESS: A SYSTEMS APPROACH TO DELINQUENCY PREVENTION AND SCHOOL SUCCESS

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There are few studies assessing the effectiveness of programs that combine whole school discipline with specialized supports for high-risk adolescents. This paper describes the background and procedures of a comprehensive approach to support at-risk students, implemented in concert with a whole school discipline system. Skills for Success is a systems-based intervention that combines universal prevention strategies to improve school discipline with early identification and multidisciplinary services for youth at-risk for delinquency and school failure. In addition to a description of the multi-level intervention, this paper describes the methods, procedures and results of two evaluation studies examining the association of the Skills for Success approach with positive outcomes for middle and high school students.

To prevent minor, as well as serious, antisocial behavior, educators around the world are turning to a comprehensive and proactive approach to behavior management commonly referred to as School Wide Positive Behavior Interventions and Supports (SWPBIS) (Simonsen, Fairbanks, Briesch, Myers, & Sugai, accepted; Sprague & Golly, 2005; Sugai & Horner, 2010). SWPBIS is based on the assumption that actively teaching and acknowledging expected behavior can change the extent to which students expect appropriate behavior from themselves and each other. When consistent expectations are established by all adults, the proportion of students with serious behavior problems will be reduced and the school's overall social climate will improve (Bradshaw, Koth, Bevans, Ialongo & Leaf, 2008; Bradshaw, Koth, Thornton & Leaf, 2009; Colvin, Kame'enui, & Sugai, 1993).

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BACKGROUND

The procedures that define SWPBIS are organized around three main themes: Prevention; Multi-Tiered Support; and Data-based Decision Making. Investing in prevention of problem behavior involves (a) defining and teaching a set of core behavioral expectations (e.g., be safe, respectful, responsible), (b) acknowledging and rewarding appropriate behavior (e.g., compliance to school rules, safe and respectful peer to peer interactions and academic effort/engagement), (c) systematically supervising students in classrooms and common areas, and (d) establishing and implementing a consistent continuum of consequences for problem behavior. The focus is on establishing a positive social climate, in which behavioral expectations for students are highly predictable, directly taught, consistently acknowledged and actively monitored.

School-wide positive behavioral interventions and supports (PBIS) practices are implemented in more than 18,000 general education public elementary, middle and high schools across the U. S. (www.pbis.org). The beneficial outcomes reported by these schools include dramatic reductions in office discipline referral rates, increased instructional time for students commonly removed for disciplinary reasons and improved academic performance for some students (Algozzine, Putnam, & Horner, 2010). Research has also documented reduced perception of school risk factors by adults (Horner et al., 2009) and improved organizational health (Bradsha et al., 2009). The broad success of PBIS implementation in typical schools has led to the mobilization of efforts to bring this multiple-systems approach to Alternative Education Programs and Settings (AE) (www.dignityinschools.org; www.pbis.org).

The positive outcomes associated with PBIS in general education public schools indicate that scores of students who otherwise would be at risk for social and academic failure are achieving greater support and success. Even so, thousands of our most vulnerable children and youth receive educational, mental health and other services every day in AE programs and settings that have not adopted or implemented PBIS practices. Such settings include (a) schools within schools (Gottfredson, Gottfredson, & Hybil, 1993; Tobin & Sprague, 2003); (b) separate, standalone AE programs (Quinn & Poirier, 2006); and (c) day treatment and school programs within residential treatment programs (Nelson, Sprague, Jolivette, Smith, & Tobin, 2009).

Considerable service overlap exists with respect to these AE settings, as well as the characteristics and needs of the students served. Compared with typical public school students, significantly higher proportions of students

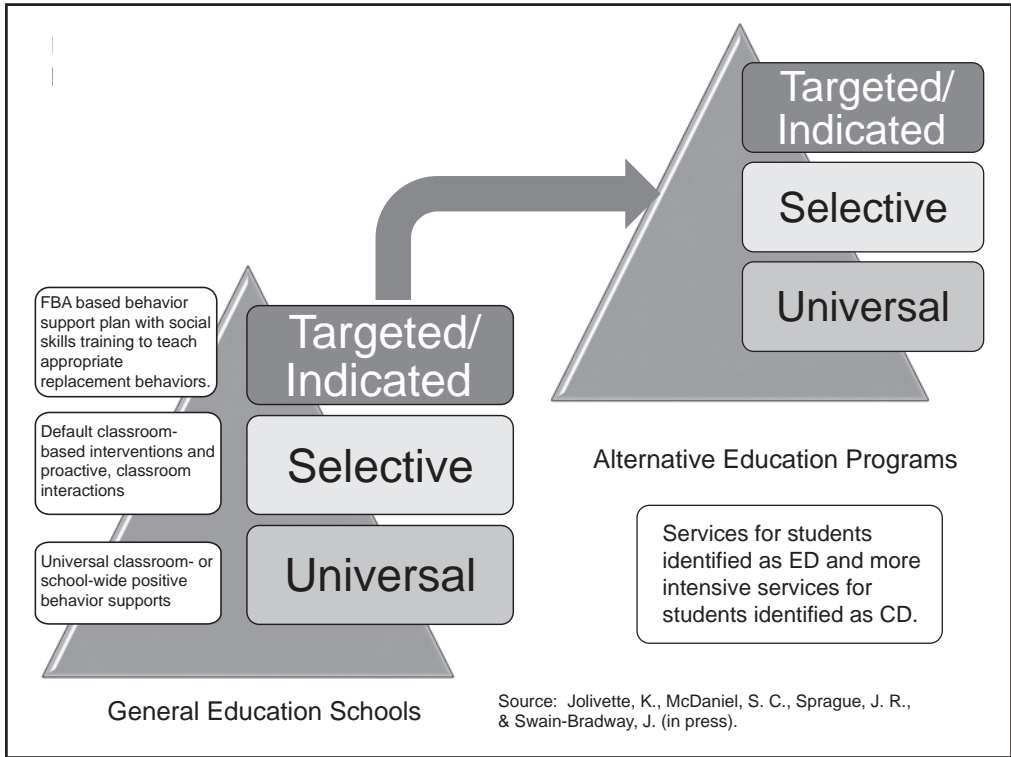
with educational disabilities, mental health disorders and patterns of antisocial behavior have been reported in AE settings. An estimated thirty three to seventy five percent of students in alternative and residential programs are identified as having emotional and behavioral disorders (E/BD) (Carver & Lewis, 2010; Duncan, Forness, & Hartsough, 1995). The National Longitudinal Transition Study-2 (Wagner & Davis, 2006) reported that more students with E/BD are educated in AE settings than any other disability group with many of these students needing additional mental health services.

“Alternative education” (AE) can refer to any non-traditional educational service, but is often used to designate a program provided for at-risk children or youth who experienced academic and/or behavioral failure in their neighborhood school (Aron, 2006) although there is no agreed upon definition. The District Survey of Alternative Schools and Programs conducted by the National Center on Education Statistics (Carver & Lewis, 2010) reported that in the 2007–08 school year, 64 percent of districts reported having at least one alternative school or program for at-risk students that was administered either by the district or by another entity. Of the 646,500 public school students attending alternative schools and programs for at-risk students, 558,300 students attended district-administered alternative schools and programs and 87,200 students attended alternative schools and programs administered by another entity.

We assert that students receiving AE services should receive the same three-tiered approach for preventing and minimizing challenging behaviors as students in typical school settings through adaptation and implementation of PBIS systems and practices (AE-PBIS).

Our assumption and experience to date is that the adoption, implementation and maintenance strategies for AE-PBIS are similar to those used by typical general education schools but do *require specific and detailed adaptations to address unique AE setting/population needs, data patterns and contextual factors* (Nelson et al., 2009). We also respond directly to the argument that universal interventions do not work for high-risk students within AE settings (Houchins, Shippen, & Jolivette, 2006). Instead, we suggest that any effective program can adopt the three-tier PBIS prevention and intervention logic to meet the unique needs of a particular AE setting (Figure 1 illustrates this logic) (Jolivette, McDaniel, Sprague, & Swain-Bradway, in press).

FIGURE 1: *Adaptation of the Three-tier PBIS Logic for Alternative Education Programs*



While AE students are most likely selected from the top tier of a general education school, differentiated support systems are still required in an AE program, with universal systems applied “vertically” at all tiers and selective and indicated supports provided “horizontally” within a support tier.

IMPLEMENTATION OF POSITIVE BEHAVIOR SUPPORT IN ALTERNATIVE EDUCATION SETTINGS

A search of recent (2002-2011) peer reviewed journals, using databases such as Academic Search Premier and PsychInfo and keywords such as “Positive Behavior Support” and “alternative education programs or schools” identified several articles with reports of AE schools’ use of practice *elements* similar to PBIS, even when the full system (as described for typical school implementation) was not being implemented. In addition, there are only a few published evaluations of PBIS in alternative schools.

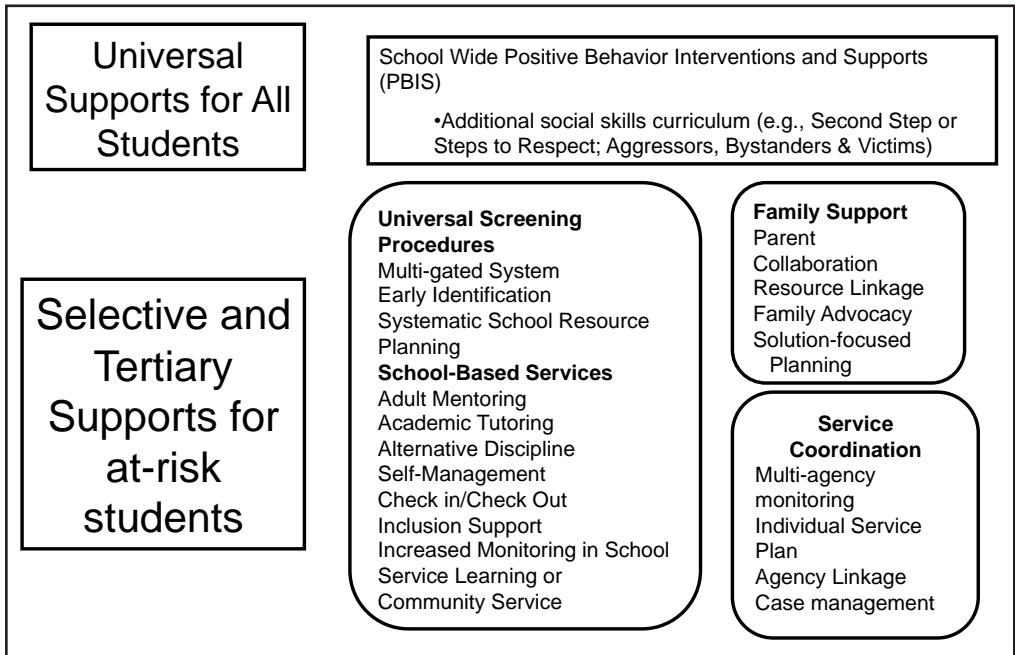
Descriptive case studies have documented that implementing SWPBIS, or similar proactive system wide interventions, in alternative school settings results in positive outcomes. These include decreases in crisis interventions

(e.g., restraints) and aggressive student behavior, increases in student academic achievement and acceptable intervention fidelity and social validity (Farkas et al., 2011; Miller, Hunt, & Georges, 2006; J. Sprague & Nishioka, 2004).

SKILLS FOR SUCCESS COMPONENTS

Walker and colleagues (Walker et al., 1996) recommended that every school provide a foundation for at-risk student supports by building a school-wide positive behavior support system. Skills for Success (SFS) combined a school wide PBIS intervention called Best Behavior (J. R. Sprague & Golly, 2005) and the Second Step Violence Prevention curriculum (Frey, Hirschstein, & Guzzo, 2000) to serve all students in the school. Skills for Success provided additional supports for those students identified as at-risk for or who were already experiencing school failure and academic problems. SFS combined (a) universal screening procedures, (b) school-based services, (c) family support services, and (d) service coordination services. The following paragraphs provide a description of these services and figure 2 illustrates the combined intervention features.

FIGURE 2: Diagram for the Skills for Success Program Services for At-risk Students



UNIVERSAL SCREENING PROCEDURES

The SFS universal screening procedure is designed to identify at-risk students early—before they engage in a negative cycle of chronic academic failure and school discipline problems. Teachers can be remarkably reliable in their ability to identify students who will struggle and eventually fail in school without additional support and help early in the school year (H. M. Walker & Severson, 2002) when using a consistent and well-defined protocol.

Unfortunately, the systems that schools currently use to identify students with emotional and behavioral problems require documentation of academic and/or behavioral failure before they can receive services. These failure-based systems result in substantial emotional, systemic and monetary costs for our schools and communities. Further, the evaluation protocols required to establish eligibility for services often provide little information regarding the student's educational needs (Sprague, Cook, Wright, & Sadler, 2008).

The SFS universal screening protocol is not designed to identify students for mental health or special education evaluation referrals but rather to provide schools with a pragmatic and systematic process to identify students who may require additional school support to be successful in school. The primary goal of the SFS universal screening procedure is to ensure that at least one teacher considers the risk status of each student in the school using an efficient procedure that requires minimal teacher time. Following the model established by Walker and Severson (1992), the SFS program used a multi-gated system to screen students systematically. This screening process provides schools with information regarding protective factors and skill-building supports that would help increase the students' success while requiring a minimum of staff time.

SCHOOL-BASED SUPPORTS FOR STUDENTS AND FAMILIES

Although SFS services were tailored to meet the needs of individual students, a general framework of evidence-based practices in the school was applied. These supports included adult mentoring, increased academic support, alternative discipline, enhanced social skills instruction and school-based case management.

Adult Mentorship

A critical goal of the SFS program is to build a connection between the student and the school. To accomplish this, SFS program staff and other adults in the school serve as mentors. The SFS mentor meets daily with their assigned students to foster a positive mentoring relationship. The mentor coached the student to make positive behavior changes, monitored their behavior and academic performance in school, and, most importantly, provided the presence of a trusted adult at school. A daily check-in system adapted from Check and Connect (Evelo, 1996), increased monitoring of students throughout the school day, a high ratio of positive to negative interactions with at-risk students and non-judgmental solution-focused responses to student problems.

Academic Services

The school-based SFS program services included specialized academic, social and life skills instruction using multiple strategies to meet individual student needs. An important feature of the SFS program is a part-time classroom (school within a school) structured to provide positive behavior supports, low student to teacher ratios and research-based teaching strategies providing individual and small group instruction for the at-risk students. The curriculum areas addressed within the alternative classroom setting included functional life skills necessary for successful transition to responsible adult living e.g., vocational, self-management, leisure and independent living skills. SFS program staff provided students with individualized academic support through support services in regular classroom settings, tutorial help with regular classroom assignments, basic skill instruction and study skills training. Support services in the regular classroom allowed SFS program staff to identify specific skills and strategies that the student could use to promote positive relationships with the teacher and other students. Likewise, assisting in regular classrooms provided the SFS program staff with opportunities to dialog and consult with the AE students' regular classroom teachers.

Social Skills Instruction

SFS staff conduct intensive social skills training that includes interpersonal communication, problem solving, coping with feelings and making friends. Social skills training is conducted in small group settings and includes selected typical peers to enhance skill building and reduce stigmatization.

Alternative Discipline

Alternative discipline services included a level system, frequent positive rewards and individualized behavior supports that included practice of positive social skills in regular school settings. To maximize the students' educational success, the SFS staff gave students rewards for appropriate use of skills along with constructive feedback for inappropriate use of skills across academic and non-academic settings. If necessary, SFS staff conducted a functional behavioral assessment to develop individualized behavior support plans. Consequently, student behavior support plans considered the function of – or reason why – the student exhibited the problem behavior, taught appropriate replacement skills for socially unacceptable behavior and taught self-management skills (O'Neill et al., 1997).

School-Based Case Management

School-based case management services assisted students to obtain education and training that increased success in school, vocational and community settings. An important aspect of SFS case management services was coordinating communication, support strategies and behavior interventions among the SFS program, school counselor, principal in charge of discipline and the parent. Case management services were guided by an individualized education plan for each student. The plans were organized by skill area (e.g., social skills training, functional life skills training, vocational instruction, community training and academic support) and outlined the strategies, responsibilities and timelines for implementation and monitoring progress.

Family Support and Collaboration

Many students served by the SFS program required more comprehensive services to support their success in school and the community. The families of these students often had difficulty providing the supervision and stability required to adequately support their child in school. Moreover, the chronic patterns of adverse life events they experienced on a daily basis often made school attendance and academic success a low priority. Given this, a primary goal of SFS family support services was to build collaborative partnerships between the student's family and the school to increase parental school involvement. The SFS program staff coordinated all school contact to minimize parent confusion and provided parents with daily reports regarding their child's school progress. Additionally, the SFS staff worked collaboratively with parents to build school/home interventions that increased positive

relationships, limit setting, monitoring, praise and constructive problem-solving - factors that reduce the likelihood of school and community failure for at-risk students.

Service Coordination

For some students, the SFS staff match community services to individual student and family needs. SFS staff develop a service plan with the student, their parents and involved community agency representatives. The purpose of this SFS Service Plan is to organize systematic and integrated services across school, home and community settings that assist students in reducing antisocial behavior and increasing positive school engagement. The purpose of service coordination was to build linkages to community agencies that ensure selected students have a stable adult mentoring relationship, shelter, food, safety and medical care. Moreover, SFS program staff worked collaboratively with community agencies to increase after-school supervision, encourage activities with non-delinquent peers and build mental health to support students in managing the many stressful events of their day-to-day life.

SKILLS FOR SUCCESS RESULTS

The authors have conducted two studies assessing the effects of this “school within school” approach and suggest that it is a viable model for supporting at-risk secondary students in schools. We review the studies here.

Sprague and Nishioka (2004) combined school-wide PBIS with a selective AE intervention for high-risk youth in a suburban middle school. One treatment and one comparison middle school (grades 6-8) from the same suburban school district in the northwest region of the United States participated in the two-year study. The treatment school implemented a “school within school,” which included a universal screening system to identify students at-risk for school failure, plus an array of individual student and family intervention services (J. Sprague & Nishioka, 2004). Alternative education supports included assigning school-based mentors, academic tutoring and inclusion support and service coordination with community agencies (e.g., youth services, mental health), social skills teaching and alternatives to out-of-school suspension.

The treatment school showed a higher percentage reduction (-35%) in overt aggression than the comparison school (-26%). Moreover, the juvenile arrest rate for at-risk students served in the SFS alternative program was lower in frequency and severity of juvenile crimes than a matched group of students from the control school who did not receive SFS supports.

In Study 2, the SFS model was implemented in seven high schools and one middle school with high rates of delinquency, dropout and academic failure. For this study, at-risk students in grade 9 received small group and individualized interventions matched to their support needs. The pilot study used a pre-posttest design using the school as the unit of analysis. Participating schools administered the Effective School Battery (Gottfredson & Gottfredson, 1999), a survey that assesses student perceptions of school climate and engagement in healthy and harmful behaviors. The study found statistically significant improvement in four of the indicators of school psychosocial climate (fairness and clarity of school rules, respect for students, planning and action and respect of students) and seven student characteristics (positive peer influence, commitment to education, social integration, attachment to school, beliefs in rules, positive self-concept, school effort, avoidance of punishment and school rewards). The student perceptions of safety, clarity of rules, parental education, involvement and personal competency remained the same.

These pilot studies provide evidence that the combined use of universal interventions with selective interventions may increase positive outcomes at the school and student level. Further, the application of universal screening procedures may assist in early identification and, in turn, timely prevention services for students at-risk for school failure and antisocial behavior.

CONCLUSION

Our view is that *any* program serving children and youth will benefit from adopting, implementing and maintaining evidence-based PBIS practices. A focus on the outcomes of social and academic competence, the ongoing use of data to support implementation decision-making, systematic methods of coaching and training to support staff behavior, and the use of evidence-based practices to support student behavior certainly are indicated for alternative education services. An overarching goal of PBIS in regular public schools is to keep more students in the educational mainstream. The question remains whether alternative education schools and programs can apply PBIS practices to more effectively reconnect children and youth to regular public schools, or whether they function to keep students disconnected and out of the educational mainstream. Skills for Success offers one such promising approach to achieve this goal.

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“WHOSE KIDS ARE THESE?” JUVENILE JUSTICE AND EDUCATION PARTNERSHIPS USING RESTORATIVE JUSTICE TO END THE “SCHOOL-TO- PRISON PIPELINE”

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School suspensions and expulsions resulting from zero tolerance disciplinary policies have directly expanded the “school-to-prison pipeline” while disproportionately and negatively affecting minority students. This paper presents restorative justice as a proven effective alternative to punitive disciplinary policies, and suggests it can be used to emphasize and reward efforts to keep students in school while also serving as a strategy to redefine the collaborative role of justice professionals and educators in the school setting.

In the past decade, the problems associated with excessive use of school suspensions and expulsions as disciplinary practices have been recognized as a national concern for both education and juvenile justice systems (American Psychological Association, 2008; Stinchcomb et al., 2006). Despite efforts of citizens and educators to restrict suspension rates, zero tolerance policies have expanded in many school districts and been cited as a primary factor limiting the disciplinary options of educational and administrative staff (Green, 2004; Bazemore and Schiff, 2010). Aside from the impact on school climate and student progress, these exclusionary policies also have had drastic effects on the justice system. Indeed, many suspended youth are now being referred directly from schools into juvenile justice agencies, where some end up on diversion caseloads, probation, or even in secure detention facilities for relatively minor, generally nonviolent infractions (Advancement Project, 2005; Florida Blueprint Commission, 2008).

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As a result of zero tolerance, the justice system has become increasingly engaged in the business of education, and education likewise engaged in the business of juvenile justice. A particular challenge that has generally remained unaddressed by both education and justice policymakers concerns the respective role each system should play in a collaborative effort to stem what has recently been termed the “school-to-prison” pipeline, and what tools have been proven successful in reducing harsh and exclusionary disciplinary practices (Advancement Project, 2005; Wald and Losen, 2003; Lospennato, 2009). Schools have increasingly come to rely on school resource officers to help keep challenging students out of the classroom, and the role of such justice professionals in the educational context has focused primarily on accelerated enforcement of suspension and arrest. While the short-term impact of this reliance may help teachers and education administrators with classroom management and arguably, school safety, the longer-term outcome of such policies is to create multi-layer impediments to keeping youth in school and off the street and especially out of court.

Juvenile justice professionals often willingly take on these responsibilities consistent with historical roles that emphasize surveillance, arrest and punishment for school rule violations. However, recent attention to the deepening pathway being worn from schoolhouse to jailhouse makes it apparent that roles and relationships between educators and justice professionals in the schools must evolve. Hence, it is now timely to expand the juvenile justice function in the school environment beyond traditional enforcement, surveillance and arrest, to include an emphasis whereby justice specialists in delinquent behavior contribute to and enhance educational efforts to keep youth in schools. Additionally, the scope of available tools to support such transformation must broaden to include evidence-based best practices that have been proven successful in both the juvenile justice and education contexts such as restorative justice.

This paper first reviews the impacts of zero tolerance, and then considers successful restorative justice strategies that have been demonstrated as successful in minimizing the unnecessary use of zero tolerance disciplinary responses in schools. Specifically, we examine the growing successful use of restorative disciplinary systems based on emphasizing and rewarding efforts for keeping students in school rather than pushing them out. Finally, we consider new working collaborations between school and juvenile justice professionals committed to limiting school suspension caused by zero tolerance and other harsh disciplinary policies.

IMPACTS OF ZERO TOLERANCE

Zero tolerance policies are essentially an exclusionary justice intervention imposed in an educational setting. Like their corresponding retributive justice predecessors, such as sentencing guidelines and mandatory minimum sentencing, zero tolerance disciplinary codes attempt to structure ostensibly rational, equitable consequences in direct proportion to the harm caused (Green, 2004). The focus of the first zero tolerance codes to exclude firearms and drugs from school grounds were understood by most criminal justice and educational professionals as practical responses to public safety threats in schools that interfered with the learning environment (Stinchcomb, et. al., 2006; Skiba and Rausch, 2006). In recent years, however, such policies have expanded to include far more minor disciplinary violations (Sughrue, 2003; Florida Blueprint Commission, 2008). Unfortunately, the unintended consequences of zero tolerance practices have resulted in the systematic exclusion of poorly performing and “behaviorally challenged” students from schools whose administrators have also been mandated to improve academic achievement scores through policies such as No Child Left Behind (NCLB) in order to receive sufficient state resources (Advancement Project, 2010).

Intended to promote school safety and enable teachers and administrators to remove threatening students from their classrooms, zero tolerance policies have in fact had considerably more far-reaching negative consequences and been viewed as largely responsible for the “school-to-prison pipeline.” Despite the lack of scientific evidence that zero-tolerance policies actually increase school safety and correspondingly foster academic achievement (American Psychological Association, 2008; Advancement Project, 2010), punishments typically associated with zero tolerance tend to put students at greater risk for decreased connectivity to school, increased participation in risky or illegal behavior, poor academic achievement and dropout and, for many, subsequent entry into the “school-to-prison pipeline” (Boccanfuso and Kuhlfield, 2011; Cassalla, 2003).

Moreover, school suspension and expulsion significantly increase the likelihood that students will be held back a grade, not graduate, and become involved in the justice system (Fabelo et al., 2011). Being suspended from school significantly decreases chances of graduating on time, and increases the likelihood of subsequent suspension or expulsion and dropping out (Osher, 2010; Balfanz and Boccanfuso, 2007; Skiba and Rausch, 2006). Despite faith in zero tolerance as a means of increasing school safety and thus student performance by excluding disruptive students from the classroom, higher school-wide suspension rates in fact appear to have the opposite effect, leading

instead to lower academic achievement and standardized test scores, even when controlling for factors such as race and socioeconomic status (Davis et al., 1994; Mendez, et al., 2003; Skiba 2006).

Overall, zero tolerance policies have had their most insidious impact on Black youth, whose rate of suspension or expulsion from schools is accompanied by an unprecedented number of school-related referrals into the juvenile and criminal justice systems. Tragically, there is consistent and increasing evidence that students being suspended and expelled for minor infractions are considerably more likely to be Black and those with disabilities (Advancement Project, 2005; Losen and Skiba, 2010). Nationally, data suggest that Black students represented only 17 percent of public school enrollment in 2000 but accounted for 34 percent of suspensions (Advancement Project, 2005), while special education students represented 8.6 percent of public school students, but 32 percent of youth in juvenile detention nationwide (NAACP, 2005). Black students with learning disabilities are three times more likely to be suspended than similarly situated white students and four times more likely to end up in correctional facilities (Poe-Yamagata and Jones, 2000).

Individual states report alarming impacts of zero tolerance policies. In 2007/08, the Florida Department of Juvenile Justice (FDJJ) recorded significant increases in the proportion of school-based referrals, with a misdemeanor as the most serious charge in 69 percent of these cases (Florida Blueprint Commission, 2008). Moreover, students of color (mostly Black students) in Florida represent just 22 percent of the Florida school population, but 46 percent of both school suspensions and referrals to juvenile justice (Advancement Project, 2005). In addition, the Advancement Project (2010) reports that:

- In Philadelphia, Black and Latino students are far more likely to be suspended, transferred to alternative schools and arrested than White students.
- In Colorado, Black students were over twice as likely as White students to be referred to law enforcement and Latino students were 50 percent more likely than White students to be referred to law enforcement.
- In Ohio, Black students were nearly five-and-a-half times more likely to be suspended out-of-school than White students in 2007.

There are similar stories from almost every state in the country and, in each case, the impact has dramatically increased with the onset of zero tolerance policies and is disproportionately high among students of color and those with disabilities.

EFFECTIVE RESTORATIVE JUSTICE RESPONSES TO ZERO TOLERANCE IN SCHOOLS

A proven strategy to reduce suspensions, expulsions and disciplinary referrals is modeled after restorative justice approaches used in the juvenile justice context and now increasingly being applied in schools to deal with youth misbehavior, rule violations and to improve school climate (Karp and Breslin, 2001; Lewis, 2009; Kane et al., 2007; Morrison et al., 2005). Restorative justice is an evidence-based practice where responses to misbehavior can take a variety of forms that are centered on several core principles:

- 1) focus on relationships first and rules second;
- 2) give voice to the person harmed and the person who caused the harm;
- 3) engage in collaborative problem-solving;
- 4) enhance personal responsibility;
- 5) empower change and growth; and
- 6) include strategic plans for restoration/reparation (Amstutz & Mullet, 2005).

Restorative justice views crime or harm primarily as a violation of individuals, relationships and communities that “creates obligations to make things right” (Zehr, 1990, p.181). The assumption underlying a restorative response is that “justice” is more than simply punishing, or treating, rule-breakers, but rather is about repairing the harm caused to victims, offenders and community. To the greatest extent possible, restorative processes seek to rebuild relationships damaged by crime and other conflicts. Achieving justice and meaningful school discipline in a restorative way suggests that holding offenders or rule-breakers accountable is not about asking them to “take the punishment,” but rather about ensuring that they take *responsibility* by making amends to their victims and the community. Indeed, it is this distinction between passively accepting punishment and actively assuming responsibility for behavior that distinguishes restorative accountability from punishment. A restorative justice response includes two primary components:

- 1) a non-adversarial and dialogue-based decisionmaking process that allows affected parties (known as “stakeholders”) to discuss the harm done to victims, while considering needs of all participants; and
- 2) an agreement for going forward based on the input of all stakeholders about what is necessary to repair the harm directly to the persons and community (Bazemore and Schiff, 2010).

The quality of a restorative intervention is determined by the degree of adherence to three core principles addressing:

- 1) the extent to which the response repairs the harm to victim, community, offenders and their families;
- 2) the extent to which each stakeholder is involved in the discussion of the incident and is given input into the plan for repair; and
- 3) the extent to which community and government roles (e.g., the criminal justice system, education system) are transformed to allow communities a greater voice and increased responsibility for responding to conflict, while other enforcement systems (e.g., schools) assume a more facilitative role (Pranis, 2001; Van Ness and Strong, 1997).

As Reistenberg (2007:10) asserts:

A restorative philosophy emphasizes problem-solving approaches to discipline, attends to the social/emotional as well as the physical/intellectual needs of students, recognizes the importance of the group to establish and practice agreed-upon norms and rules, and emphasizes prevention and early restorative intervention to create safe learning environments.

RESTORATIVE JUSTICE OUTCOMES IN UNITED STATES AND INTERNATIONAL SCHOOL SETTINGS

Restorative responses to zero tolerance have shown strong results in keeping students in school and off the streets in various jurisdictions around the United States and the world. At this time, restorative practices in schools are known to exist in California, Colorado, Georgia, Illinois, Maine, Maryland, Michigan, Minnesota, Missouri, New York, Texas, Pennsylvania, and Connecticut. Some states, such as Georgia, are expanding the use of restorative justice by experimenting with changing the relationship between juvenile justice and education with the goal of increasing educational support for troublesome and delinquent youth within the school environment by placing probation officers in schools. In these jurisdictions, school-based probation officers are developing new partnerships with educators through restorative practices to help create alternatives to suspension, and to offer additional support to school staff with the goal of providing second chances for youth otherwise likely to be suspended or expelled.

Nationally, as well as internationally, there is now considerable evidence that restorative approaches can produce a promising number of positive outcomes in the academic environment, including reduced suspension and expulsion, decreased disciplinary referrals, improved academic achievement, and other beneficial results (Karp and Breslin, 2001; Lewis, 2009). Jurisdictions have implemented varying strategies to achieve their results, including restorative mediation, conferences or circles, school accountability boards, daily informal restorative meetings, classroom circles, restorative dialogue, restorative youth courts, peer mediation and other practices. In addition, School Accountability Boards (SABs) are becoming an increasingly common restorative response to school disciplinary issues. In a SAB setting, peer groups of students, along with faculty and staff, deal with one another's challenges in an inclusive and relationship-driven community (Schiff, Bazemore and Brown, 2011). Although there has been relatively little rigorous impact evaluation on restorative measures in schools, preliminary research suggests very promising results.

Some examples of positive results from incorporating restorative justice from schools and school districts across the country are detailed below.

- Using restorative circles, conferences, peer mediation and other approaches, the Minnesota Department of Education significantly reduced behavioral referrals and suspensions in two schools by 45 to 63 percent, increased academic achievement and significantly reduced behavior referrals and suspensions. In a recent survey, 277 schools principals reported that their schools used restorative practices (Minnesota Department of Education, 2003, 2011).
- In Denver, Colorado, a combination of informal classroom meetings, victim impact panels and restorative conferencing resulted in a 68 percent overall reduction in police tickets and a 40 percent overall reduction in out-of-school suspensions in seventeen schools (Advancement Project, 2010).
- Upon implementing restorative circles, West Philadelphia High School saw a 50 percent decrease in suspensions, along with a 52 percent reduction in violent and serious acts during the 2007/08 school year, followed by a further reduction of 40 percent during the 2008-2009 school year (Lewis, 2009).
- Various schools in Pennsylvania saw marked reductions in fighting, cafeteria violations, misbehavior, detention, fighting, theft, classroom disruptions and suspensions after implementing restorative conferencing, circles and other practices (Mirsky, 2003).

- At Cole Middle School in Oakland, CA, suspensions declined by 87 percent and expulsions declined to zero during the implementation of whole-school restorative justice (Sumner et. al, 2010). The Oakland Unified School District then passed a resolution making restorative justice its official district policy (Oakland Unified School District, 2010).
- Based on successful implementation of restorative peer juries in Chicago, IL that saved over 1,000 suspension days, restorative practices were integrated into the 2007 Student Code of Conduct and a school implementation guide was developed (Dignity in Schools Fact Sheet, n.d.; Ashley and Burke, 2009).
- Following training and technical assistance in restorative circles and conferences from a local university, Palm Beach County, FL is now moving to include restorative justice in its menu of disciplinary options available to all county public schools (Lewis, 2012).

In addition to the results seen across the United States, schools, numerous jurisdictions in other countries are also implementing restorative practices in response to overly harsh disciplinary policies and reporting notable outcomes. For example:

- In Scotland, school “exclusions” were significantly reduced in 14 out of 18 public schools after implementing various restorative practices (Kane et al., 2007).
- In Hong Kong, a whole-school restorative approach resulted in a significantly greater reduction of bullying, higher empathetic attitudes, and higher self-esteem in comparison to a partial intervention and a control group (Wong et al., 2011).
- In several Canadian schools, suspensions went down anywhere from 12 percent to 73 percent after implementing restorative conferencing (Lewis, 2009).
- In several United Kingdom schools, decreases were seen in suspension days and negative incidents following implementation of restorative conferencing, circles and other practices (Lewis, 2009).
- Restorative conferencing was implemented within schools in Queensland, Australia in 1994, and studies since then have illustrated its effectiveness as a response to student misbehavior (Youth Justice Board, 2002).

- In England and Wales, implementation of conferences, mediation and whole school approaches resulted in 94 percent satisfactory conference outcomes, 96 percent conference agreements upheld, 89 percent student satisfaction with outcome. In addition, teachers reported less teaching time lost due to managing behavioral problems, and a trend was identified whereby schools implementing restorative justice reduced permanent student exclusions (Shaw, 2007).
- In Flanders, following high levels of satisfaction and compliance with restorative conferences, the Flemish Education Department decided to take steps towards implementing restorative group conferencing in Flemish schools (BursSENS et al., 2006).

To date, much research demonstrating the positive effects of restorative justice has been qualitative – improved school climate and culture, better relationships, increased responsibility among students, better teacher-student interaction and increased satisfaction with disciplinary outcomes (McKlusky et al., 2008; IIRP, 2009; Morrison et al., 2005). Rigorous empirical research on the quantitative impact of restorative justice in schools has yet to reach the same scale as seen for its application in juvenile justice settings, but there is nevertheless a growing body of evidence that restorative practices in educational settings can mediate the impacts of poorly applied zero tolerance policies (e.g., Schiff, Bazemore and Brown, 2011).

DISCUSSION: REDEFINING “JUSTICE” IN THE EDUCATION CONTEXT

It is evident that restorative justice can have an impact on decreasing suspensions and expulsions, as well as engaging youth in the school setting and improving school climate. Moreover, there is now national and international evidence that the status quo relationship between education and juvenile justice must change (Morrison et al., 2005). As educational and juvenile justice professionals agree and research documents, adolescents are more likely to expand, rather than limit, their delinquent involvement when removed from the structure of the school environment. Yet to date, the role of the justice professional in the education context has been limited to serving as a passive “intake officer” required simply to mete out punishment and provide surveillance over troublesome youth within the educational community setting. It is critical to recognize that juvenile justice and education *serve the same kids*, and encouraging schools to push their more difficult charges

into the justice system, where their risk of academic failure and subsequent criminality is heightened, is not just bad social policy, it is also bad economic policy as the costs of court and detention continue to increase.

An alternative approach would envision reshaping the role of juvenile justice practitioners in the academic environment as agents of positive youth development (Butts et al., 2010). It may be time to question the efficacy of educators defining and determining the best role for justice professionals within their walls, rather allowing trained justice professionals to clarify and determine their own best role within the education system. Using restorative justice in the educational setting can be a strong vehicle for creating true partnerships between justice and education practitioners, as school police (and probation) officers can become resourceful, strategic partners in prevention and intervention efforts designed to strategically or potentially help keep youth *in* school and *out* of the justice system. Such transformation would apply to the roles of School Resource Officers (SRO) as primary intervention intermediaries, and potentially to probation officers once youth have already been involved in the justice system. For example, in Georgia and some schools in Illinois, a new role for probation officers involves spending a significant amount of their time in schools where youth on their caseload are enrolled (Bardertscher and Tagami, 2011). These jurisdictions may be acknowledging the obvious fact that both systems serve the same kids, and communication and collaboration is an essential component of keeping such youth away from further justice system involvement.

In this context, restorative justice is an especially effective strategy for helping to keep youth in school by redefining school disciplinary options and codes (as seen, for example, in Oakland, California; Chicago, Illinois; Denver Colorado; and West Palm Beach, Florida) to minimize the use of exclusionary school discipline and increase the use of restorative justice strategies to help keep kids out of the school-to-prison pipeline. While we have suggested elsewhere that slowing the “school-to-prison pipeline” will require more than a single disciplinary or educational strategy (Bazemore and Schiff, 2010), we suggest here that educational policy alone, no matter how well grounded, is inadequate. Rather, it is essential to decrease the number and rate at which youth are being “graduated” into justice facilities by effectively comingling evidence-based education and youth justice interventions. Moreover, there must be a complementary relationship between well-trained education and justice professionals working collaboratively in schools to hold youth accountable for their behavior while also keeping them engaged, productive and academically successful. We propose that the justice role

in the education environment must not be defined by educators looking for “enforcement” of exclusionary policies, but rather by a comprehensive engagement and agreement of *both* justice professionals and school personnel to engage students in the principles and practices of restorative justice.

CONCLUSION

In this paper, we have suggested that the cumulative effect of zero tolerance and other exclusionary discipline policies in schools has been generally disastrous and has resulted in unprecedented numbers of mostly minority youth entering what is now being called “the school-to-prison pipeline.” In response to failed attempts at improving school safety through increasing surveillance and expanding suspension and expulsion rates, we offer restorative justice as an effective, evidence-based nonpunitive response to school rules violations. Moreover, it can redefine the collaborative roles and relationships of educators and juvenile justice professionals by offering an inclusive and responsive structure for helping reengage youth in the academic setting rather than further disenfranchising them from the school community.

Charting a new relationship between juvenile justice staff and educators may be difficult when responding to troublesome youth in schools. However, it is possible for police and potentially probation staff to develop supportive respectful relationships with teachers and other education professionals aimed at maximizing opportunities to keep troubled youth in school. While the specter of putting probation officers in schools might be viewed as a dangerous signal of what some critics rightly view as reinforcing a “lock-down” mentality, the objective in the jurisdictions highlighted here seems more about ensuring that court-involved and at-risk youth are supported in the classroom and are making progress in meeting educational goals. Though not yet evaluated, these promising efforts seem to suggest a direction for new education/justice partnerships that benefit teachers, staff and students. In the end, the goal of restorative justice in the schools is to reengage youth at risk of academic failure and juvenile justice system entry by creating restorative responses to misbehavior that help keep youth in school, off the streets and out of detention. By designing new education-justice partnerships grounded in principles of restorative justice, we assert that it is possible to stem the tide of youth currently at risk of entering in the school-to-prison pipeline.

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PREVENTING DISCIPLINARY EXCLUSIONS OF STUDENTS FROM AMERICAN INDIAN/ALASKA NATIVE BACKGROUNDS

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We present 2009-2010 data on disciplinary exclusions in schools and juvenile incarcerations from one state in the United States to demonstrate that American Indian/Alaska Native (AI/AN) students: (a) are disproportionately over-represented in disciplinary exclusions from the classroom, (b) lose 4.5 times as many student days as White students due to disciplinary exclusions, and (c) are removed to alternative education for relatively minor offenses. We then present an overview of the literature on culturally responsive school environments, the Native community's recommendations to improve outcomes for AI/AN students and approaches to educational systems changes that might alleviate disciplinary exclusions of AI/AN students.

The deleterious effects of excluding students from the classroom for disciplinary reasons, as well as the over-representation of non-White students among those excluded have been widely documented (Aud, Fox, & KewalRamani, 2010; Christle, Jolivette, & Nelson, 2005; Faircloth & Tippeconnic, 2010). Little published research on American Indian/Alaska Native (AI/AN) students and youth exists, although they experience high exclusion and high incarceration rates (Aud et al., 2010; Political Research Associates, 2005). Our goal is twofold. First, we examine 2009-2010 discipline and juvenile justice data from a state in the Northwestern United States to document the magnitude of the disproportionate representation of

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AI/AN students in various types of disciplinary exclusion and incarceration as well as the duration and primary reasons for disciplinary exclusions of AI/AN students. Second, we present promising strategies for culturally responsive behavior support in the context of recommendations put forth by the AI/AN communities to raise the educational achievement of AI/AN students. Our first goal was guided by the following research questions:

1. Are AI/AN youth excluded for disciplinary reasons from the classroom and incarcerated at a disproportionate rate compared to White youth?
2. Do AI/AN students lose more days in the regular classroom due to disciplinary exclusions compared to students from White backgrounds?
3. What are the primary reasons why AI/AN students are excluded compared to students from White backgrounds?

Because of the brevity of the current study, and because the majority student population in the state was White, we focused on White students as the only comparator group.

METHOD

SAMPLE SIZE AND CHARACTERISTICS

We examined 2009-2010 data on disciplinary exclusions from the classroom recorded in one state. A total of 147,850 disciplinary exclusions were reported involving 64,088 unique students. Of those unique students, 4,600 (7.2%) were of AI/AN backgrounds and 38,354 (59.8%) were White. Of the 4,600 AI/AN students, 65.1 percent were male, 17.1 percent were in grades Pre-K to 5, 33.4 percent were in grades 6 to 8, and 49.4 percent were in grades 9 to 12. A total of 69.6 percent were labeled as economically disadvantaged and 21.7 percent received special education services. Of the 38,354 White students, 68.7 percent were male, 17.6 percent were in grades Pre-K to 5, 31.2 percent were in grades 6 to 8, and 51.3 percent were in grades 9 to 12. A total of 49.6 percent were labeled as economically disadvantaged and 24.4 percent received special education services. In the same year, a total of 559,251 students were enrolled in the state, 67.51 percent of which were White and 2.85 percent of which were AI/AN. We juxtaposed these discipline records with data summaries from that State's juvenile justice system yielding information on the state's juvenile incarceration rates.

MEASURES

Five types of disciplinary exclusion were recorded in our dataset: expulsion (removal from the regular school for the remainder of the school year or longer), in-school-suspension (temporary removal from the regular classroom), out-of-school suspension (removal from the regular school), truancy (eight unexcused absences of a half day or more in one month) and removal to alternative education (removal of student with a disability to an alternative setting for not more than 45 school days). Expulsions (EXP), in-school-suspensions (ISS), out-of-school suspensions (OSS) and removals to alternative education (AltEd) were associated with the number of days the student was excluded from his or her regular classroom. The duration of exclusions was measured in half day increments.

Each type of disciplinary exclusion was associated with the reported behavioral violation. Most of the records in our dataset listed alcohol or drug possession or use, weapon possession, threat or intimidation, disorderly conduct or fighting, insubordination, violation of school rules, and attendance policy violations and are the focus of our analyses.

Research Question 1

To answer research question 1, we subtracted the percent AI/AN and White students represented of the total student enrollment from the percent of disciplinary exclusions involving AI/AN and White students respectively, so that a negative number indicated disproportionate under-representation and a positive number indicated disproportionate over-representation in a given discipline category. Similarly, we subtracted the percent AI/AN and White youth representative of the state's overall population aged 18 and younger from the percent of the state's juvenile incarcerations involving AI/AN and White students respectively. We followed-up on the descriptive analysis with a Chi-Square test of differences in proportions to examine the statistical significance of visually detected differences.

Research Question 2

For research question 2, we calculated total student days for each group by multiplying the group's total enrollment by 170 days, the average length of the 2009-2010 school year. We then summed the number of days lost from

the regular classroom due to disciplinary exclusions for each student group. We divided the number of days lost by the total student days to arrive at a percentage of student days lost to disciplinary exclusion for each group.

Research Question 3

For research question 3, we conducted a descriptive analysis of the behavioral violations associated with each type of exclusion for AI/AN and for White students. For each group, we calculated the percent of EXP, ISS, OSS and AltEd associated with alcohol or drugs, weapons, threat or intimidation, disorderly conduct or fighting, insubordination, violation of school rules and attendance policy violation. Because AI/AN and White students appeared to receive strikingly different exclusionary consequences for violations of attendance policy, we followed-up the descriptive comparisons for this type of violation with a Chi-Square test of differences in proportions to examine if observed differences were statistically significant.

RESULTS

Figure 1 summarizes the outcomes for research question 1. Across all exclusionary discipline practices, AI/AN students were disproportionately over-represented while White students were disproportionately under-represented. The magnitude of the discrepancy between the two groups was largest in AltEd (19.2 percentage points), suggesting that AI/AN students with a disability are more readily removed to alternative educational settings following disciplinary incidents than White students. It is also interesting to note that White students appear substantively under-represented in Truancy, while AI/AN students are over-represented and therefore seem more prone to self-exclude from school than their White peers. While AI/AN students were slightly over-represented in juvenile incarcerations, White students were under-represented by 16.6 percentage points. The follow-up Chi-Square test confirmed our visual interpretation of Figure 1. The overall model was significant, $\chi^2(4, n = 92,679) = 63.157, p < .0005$. Given the distribution of disciplinary exclusions across student groups in our dataset, for AI/AN students, the observed count exceeded the expected count for ISS, Truancy, Removal to Alt Ed and Expulsion, while for White students, the observed count exceeded the expected count for OSS only.

FIGURE 1: *Disproportionate Representation of AI/AN and White Students in Exclusionary Discipline and Incarceration*

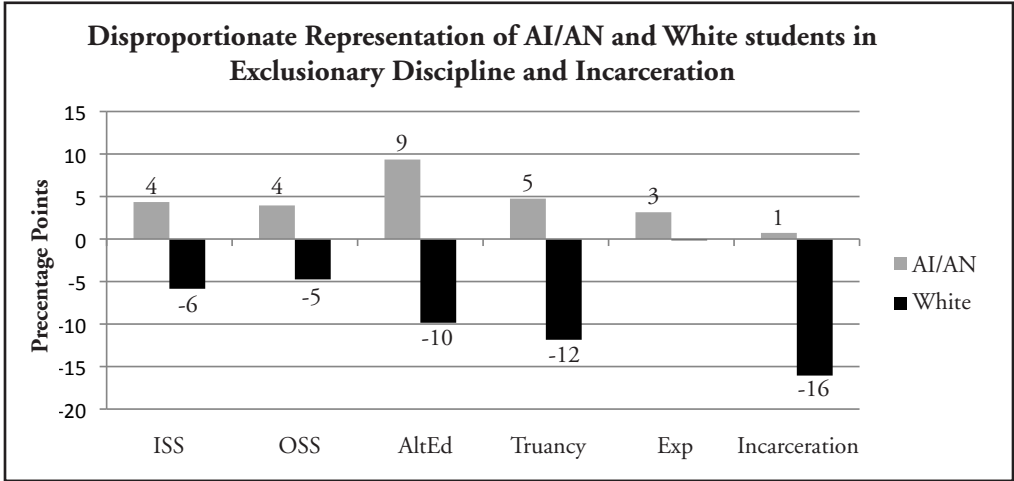


Table 1 presents the results for research question 2. The number of days in the regular classroom lost due to disciplinary exclusions differed considerably for White and AI/AN students. While AI/AN students lost 1.24 percent of their total student days, White students lost .27 percent. AI/AN students lost 4.5 times as many student days due to disciplinary exclusion as White students.

TABLE 1: *Duration of Exclusions for AI/AN and White Students*

Duration of Disciplinary Exclusion by Race		
	AI/AN	White
Enrollment	10,766	377,574
Total Student Days*	1,830,220	64,187,590
Total Days Excluded	22,685.5	172,497.0
Percent of Student Days Excluded	1.24	0.27

*equals total enrollment x 170 days.

The results for research question 3 are summarized in Table 2. AI/AN students were disciplined with ISS primarily following attendance policy violations, White students were disciplined with ISS primarily following insubordination. For both groups, OSS was a consequence mostly for disorderly conduct or fighting and EXP for severe behavioral violations including alcohol or drug possession and weapon possession. Consequences for violations of attendance policy appeared to differ between the two groups. A total of 16.2 percent of AI/AN students violating attendance policy were removed to AltEd compared to 11.7 percent of White students. Our follow-up Chi-Square test of difference in proportions for violation of attendance policy confirmed our interpretation of the tabulated percentages. The overall model was significant, $X^2(4, n = 34,468) = 33.745, p < .0005$. For AI/AN students violating attendance policy, observed counts exceeded expected counts in ISS, OSS and AltEd. For White students violating attendance policy, observed counts exceeded expected counts in EXP only.

TABLE 2: Behavioral Violations Associated with Disciplinary Exclusions

	AI/AN				White			
	ISS (n=3943)	OSS (n=3399)	AltEd (n=37)	Exp (n=129)	ISS (n=28,888)	OSS (n=29,268)	AltEd (n=162)	Exp (n=993)
Alcohol/Drugs	.2	8.2	5.4	43.4	.3	7.8	2.5	50.9
Weapon	.3	1.6	0	15.5	.4	2	5.6	13.2
Threat/Intimidation	1.5	3.8	5.4	3.9	2.3	4.7	1.9	3.5
Disorderly Conduct/Fight	8.7	27.3	18.9	4.7	17.0	26	14.8	7.1
Insubordination	18.9	18.2	13.5	9.3	22.7	17.8	31.5	5.2
Violate School Rules	17.8	9.7	13.5	9.3	22.7	17.8	31.5	5.2
Attendance Policy Violation	25.3	6.6	16.2	1.6	20.9	4.4	11.7	1.6

Although small numbers in some exclusion categories might have produced somewhat unstable results, taken together, these outcomes indicate that when compared to their White peers AI/AN students are more likely (a) to be over-represented in all types of disciplinary exclusions, (b) to lose more days in the regular classrooms due to disciplinary exclusions, (c) to be over-represented among students with disabilities removed to alternative educational settings, and (d) to be excluded from the classroom for relatively minor offenses like attendance policy violations. In addition, AI/AN youth aged 18 and younger are over-represented among juveniles incarcerated in the state. Our outcomes are consistent with the National Indian Education Association's report that found AI/AN students being highly over-represented among students suspended or expelled from school (NEA, 2010-2011).

Poor educational outcomes are often the result of both school-level and student-level factors. Faircloth and Tippeconic (2010) and CHiXapkaid et al. (2008) report that AI/AN students tend to feel unwelcome at school because of poor teacher-student relationships, problems with their peers, discipline problems and social and academic environments they perceive as culturally irrelevant. The challenge, then, is to create school environments that are perceived as welcoming by AI/AN students and support their social and academic development.

RECOMMENDATIONS FOR CULTURALLY RELEVANT SCHOOL ENVIRONMENTS

The literature on culturally relevant school environments recommends: (a) enhancing school administrators' and teachers' cultural awareness and knowledge (Tsui & Alanis, 2004; Weinstein, Tomlinson-Clarke & Curran, 2004), (b) using culturally relevant social skills lessons and language (Cartledge & Johnson, 2004; Ladson-Billings & Tate, 1995), (c) using culturally valid data for decision making (Gregory, Skiba & Noguera, 2010), and (d) educating students in the least restrictive environment through modifications to the curriculum and school-home collaborations (Faircloth & Tippeconic, 2000). The National Congress of American Indians (NCAI) and the National Indian Education Association (NIEA) have formulated specific approaches to improving educational outcomes of AI/AN students. Among those approaches are: (a) including an emphasis on AI/AN culture into personnel preparation (CHiXapkaid et al., 2008; Faircloth & Tippeconic, 2000), (b) an emphasis on tribal traditions, languages and cultures to promote a positive identity development and cultural belonging of AI/AN students (CHiXapkaid et al., 2008; NEA, 2010-2011) and (c) promoting participation of AI/AN parents in school processes to increase mutual understanding

between teachers and students and their families (CHiXapkaid et al., 2008; Demmert, 2003; NCIA/NIEA, 2011).

Both the general research base and the specific recommendation of the Native community focus on integrating school environments into larger cultural contexts to promote cross-cultural awareness and communication. Improved mutual cultural awareness is likely to promote AI/AN students' sense of belonging to school and thereby reduction in inappropriate behaviors. The literature recommends systemic approaches to implementing student discipline structures to achieve improved student outcomes.

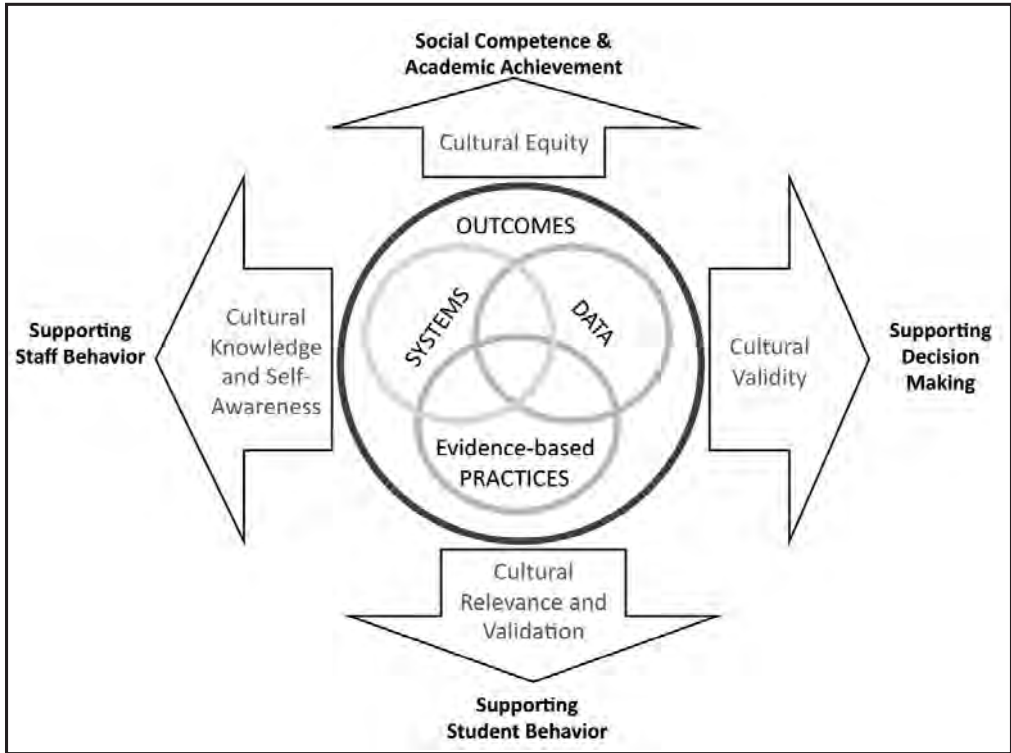
SYSTEMS CHANGE TO PROMOTE CULTURALLY RELEVANT DISCIPLINE

One approach to reducing discipline problems and educating students in the least restrictive environment is school-wide positive behavior interventions and supports (SWPBIS; Sprague & Walker, 2010). SWPBIS focuses on defining the behavioral climate of the school through a limited number of behavioral expectations that are positively phrased, proactively teaching expected behaviors, acknowledging students for engaging in those expected behaviors, implementing consistent consequences for students who violate the social expectations and continuously using data to monitor the effectiveness of teacher support practices on student discipline outcomes. Implementation of SWPBIS occurs at the intersection of teacher support systems, evidence-based practices and data-based decision-making driven by shared visions of meaningful student social and academic outcomes.

Across entire school populations, SWPBIS has been experimentally linked to reductions in disciplinary referrals (Bradshaw, Koth, Thornton, & Leaf, 2009). Recently, the conceptual framework driving SWPBIS implementation has been adapted to include an emphasis on delivering student supports that are culturally relevant and decrease disproportionate over-representation of non-White students in disciplinary exclusions (Vincent, Randall, Cartledge, Tobin, Swain-Bradway, 2011). Figure 2 provides an overview of the adapted conceptual framework for culturally responsive behavior support delivery.

Although there is still a dearth of teachers from non-White backgrounds (Faircloth & Tippeconnic, 2010), schools can support teachers teaching students of racially and ethnically diverse backgrounds through on-going professional development or coaching in cultural knowledge and self-awareness (CHiXapkaid et al., 2008). Evidence-based practices implemented by teachers in the classroom to supporting student behavior might need to be examined for their cultural relevance and validation. "Evidence-based," per se, does not indicate the student populations with whom the evidence

FIGURE 2: Elements of Culturally Responsive School-wide Positive Behavior Support



(adapted from Vincent, C.G., Randall, C., Cartledge, G., Tobin, T.J., & Swain-Bradway, J. (2011). Towards a conceptual integration of cultural responsiveness and school-wide positive behavior support. *Journal of Positive Behavior Interventions*, 13, 219-229, p. 223).

was generated. Given the overall small numbers of AI/AN students and the small amount of research conducted with AI/AN populations, teachers need to carefully examine if the practices they use in the classroom are culturally relevant for AI/AN students and validate AI/AN students’ customs, languages and traditions.

Continuous collection of data for decision making regarding student support needs is one of the hallmarks of SWPBIS. To encourage equitable discipline outcomes across students from different cultural backgrounds, data collection procedures need to be carefully examined for their cultural validity. For example, our data analysis showed that AI/AN students tended to receive rather severe disciplinary consequences for attendance policy violations.

Although “attendance” appears to be a fairly objective concept, integrating it into larger cultural contexts might reveal that punctuality is interpreted quite differently by people from different cultural backgrounds. Culturally valid operational definitions of behavioral violations are likely to discourage overrepresentation of specific student groups in disciplinary exclusions. Finally, the desired goals of students’ social competence and academic achievement need to be defined by cultural equity and shared by all school constituencies, including parents of students from non-White backgrounds.

STRATEGIES FOR PREVENTING THE DISCIPLINARY EXCLUSION OF AI/AN STUDENTS

The recommendations to improve educational outcomes for AI/AN students merge well with the conceptual adaptation of the SWPBIS framework to enhance its cultural relevance and offer promising strategies for schools and teachers serving AI/AN students. School-wide behavioral expectations defining the overall climate of a school could be formulated with the active input from AI/AN students, their parents and tribal elders in order to assure cultural continuity between AI/AN students’ home and school environments (Jones, Caravaca, Cizek, Horner, & Vincent, 2006). Collaborations among AI/AN and non-AI/AN school members on this fundamental component of behavior support systems might encourage students to have a sense of ownership in their school’s culture and perceive it as meaningful for their own identity development. Teachers who are familiar with their students’ cultural heritage through direct contact with significant adults in their students’ lives might be less likely to misinterpret culturally conditioned behaviors as violations of behavioral norms. Students who feel they belong to their school might be less likely to disrupt its operations through engaging in inappropriate behaviors.

Including parents of AI/AN students in their children’s education further expands the cultural context of the school and promotes AI/AN students’ sense of belonging to their school. To encourage parents to participate in school events, it might be important to keep them informed of their children’s social and academic achievements rather than only of their child’s discipline problems. Positive home-school communication can build teachers’ and parents’ mutual understanding of culturally diverse traditions and behaviors, encourage parents to make their voices heard and indicate to students that their family is recognized as an important partner in their social and academic development.

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PREVENTING THE SCHOOL- JUSTICE CONNECTION FOR YOUTH IN FOSTER CARE

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Youth involved in the child welfare system face many barriers to educational success and are at a higher risk of becoming involved in the criminal justice system as youth and as adults. They face disruptive school changes, social stigma and isolation, lack of educational supports, disproportionately high rates of special education services and exclusionary disciplinary actions. The implementation of promising practices and interventions regarding school discipline, delinquency prevention, educational supports and collaboration among service agencies can help improve foster care experiences and educational outcomes. These can help prevent the crossover of youth in foster care into the criminal justice system.

Youth involved in the child welfare system face many barriers to educational success; they are also at a higher risk of becoming involved in the criminal justice system as youth and as adults. They experience many disruptive school changes, endure social stigma and isolation, lack educational supports, are assigned to special education services at a high rate and are often subjected to harsher, exclusionary disciplinary actions compared to their peers who are not in the child welfare system (Advocates for Children of New York, Inc., 2000; Courtney et al., 2007; Courtney et al., 2005; Courtney et al., 2004; George et al., 1992; Osgood & Courtney, 2010; Pecora, 2005; Scherr, 2007; Smithgall, et al., 2004). These experiences often lead to poor educational outcomes, such as low high school graduation rates and low postsecondary education enrollment and completion, compared to their peers in the general population (see, for example, Brandford & English, 2004; Courtney et al., 2005; Havalchak et al., 2009; Pecora, et al., 2005). The links between child welfare, poor educational attainment and the justice system

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are apparent. In fact, foster care has been referred to as the breeding ground for criminal justice (Krinsky, 2010). Youth who have experienced abuse and neglect are more likely than their peers in the general population to become involved in the juvenile justice system; up to 29% of youth in child welfare engage in delinquent acts (Herz, Ryan & Bilchik, 2010; Ryan & Testa, 2005; Widom & Maxfield, 2001). Alumni of foster care are more likely to end up in the criminal justice system as adults than their peers (Courtney et al., 2004; White et al., 2012), and young adults who do not complete high school have higher rates of involvement in the criminal justice system as adults (Chung et al., 2007 and Uggen & Wakefield, 2005 in Osgood & Courtney, 2010).

Research has found that certain foster care experiences are linked to better educational outcomes. This paper discusses those experiences and discusses how promising practices and recommendations regarding school discipline, delinquency prevention, educational supports and collaboration among service agencies—including child welfare, education and juvenile justice—can be implemented to help achieve the optimum foster care experiences. By targeting interventions that improve the experiences youth have while in foster care, it is possible that educational outcomes of foster youth can be significantly improved and that the crossover into the criminal justice system as juveniles or as adults may be prevented.

LINKING FOSTER CARE EXPERIENCES TO IMPROVED EDUCATIONAL OUTCOMES

Casey Family Programs (Casey) researchers assessed educational outcomes in a study of 359 young adults and conducted regression analyses to determine which experiences in foster care predicted educational success. Results showed that youth who reported always feeling safe while in foster care were about three times more likely to complete a high school diploma (not a GED) than their peers who did not always feel safe. Placement stability was linked to educational resiliency: those who had only one placement had three times the odds of returning to school after dropping out than those who had five or more placements. Additionally, young adults who received transition services and scholarship funds were more likely to complete any education after high school, any postsecondary degree and a bachelor's degree (Havalchak et al., 2009)

Unexpectedly, this study found that youth who had one or two caseworkers during his or her tenure in care were less likely to be successful in some educational outcomes (completing a high school diploma, obtaining any education post-high school and completing a postsecondary degree) than youth who had three or more caseworkers. One possible explanation for this

finding is that youth who switched caseworkers several times eventually found one who was the best fit, providing what they needed in terms of educational support. Another theory is that additional supportive steps at the beginning and/or end of a caseworker's time with a youth could have a positive impact on a youth's education (e.g., additional check-ups, goal setting, required reports, increased communication with school) (Havalchak et al., 2009). There may be a complex relationship between youth and caseworker, which is therefore entwined with communication with schools about the youth's progress and educational supports provided by the child welfare agency. Other Casey research found that positive experiences in foster care, such as placement stability and receipt of independent living services, increased educational success for youth in foster care. Optimizing all foster care experiences (placement history and experience, therapeutic services and supports, foster family activities, preparation for leaving care, resources upon leaving care, nurturing supports) dramatically reduced undesirable education outcomes (Pecora et al., 2010).

DISCUSSION AND RECOMMENDATIONS

IMPLEMENT PROMISING PRACTICES RELATED TO FOSTER CARE EXPERIENCE PREDICTORS

By targeting services, practice and policy changes to enhance the foster care experiences that predict educational success, child welfare and educational systems will be investing in prevention—preventing negative behavioral, social and academic experiences that make the “school-to-prison pipeline”ⁱ all too real for youth in foster care.

Promoting Stability in Placements and in Schools

High placement mobility, and associated school change, has detrimental effects on the educational success of youth and increases the risk for delinquent behavior and juvenile justice involvement (Courtney & Heuring, 2005 in Osgood & Courtney, 2010; Pecora et al., 2005; Ryan & Testa, 2005 cited in Krinsky, 2010; Widom & Maxfield, 2001).

To prevent mobility, screening and matching of foster families is critical. Achieving a good fit between foster parents and youth can prevent school mobility challenges. A good fit includes youth feeling safe and supported in their foster home. Ongoing foster parent support and training must be provided, particularly in how they can monitor and support educational progress.

When school mobility is unavoidable, other supports, such as after-school programs, can be put in place as proxies for a stable school environment. Youth in foster care who are involved in after-school programs or religious organizations are significantly less likely to experience a delinquency petition (Ryan et al., 2008 cited in Krinsky, 2010). The report “Addressing the Unmet Needs of the Children and Youth in the Juvenile Justice and Child Welfare Systems” (Leone & Weinberg, 2010) provides several evidence-based recommendations for tutoring, after school and out-of-school programs geared at providing the support and consistency that youth in foster care need. The Incredible Years Training series for biological parents and the Attachment and Biobehavioral Catch-Up (ABC) program for foster parents are early intervention programs that aim to train parents and caregivers, and the youth themselves, in ways to reduce behavioral and emotional problems. Leone and Weinberg’s report also recommends several interventions for school-age children, including literacy programs (such as Read 180, SuccessMaker and Corrective Reading), out-of-school programs that build academic skills in the summer or after school, tutoring programs and mentoring programs (Big Brothers/Big Sisters, Twelve Together). Implementing an appropriate intervention or combination of interventions after school and during the summers can provide a consistency in academics that could mitigate the negative effects of school mobility. Making this happen requires improved communication between a youth’s educators, caseworker and foster parents. Caseworkers, educators and foster parents need to work together to assess a youth’s academic and behavioral needs and collaboratively develop a plan for tutoring or other intervention, including transportation and other supports the youth needs to be successful.

Alternatives to Exclusionary School Discipline

Suspension and expulsion contribute to academic disruption and school mobility, and harsh school discipline is contrary to the nurturing supports that are associated with educational success among youth in care. Nevertheless, youth in foster care are suspended and expelled at a much higher rate than their peers who are not in foster care (Scherr, 2007), and these types of exclusionary discipline are associated with poorer educational and delinquency outcomes specifically, a higher likelihood of school dropout and failure to graduate on time (Davis & Jordan, 1994; Raffaele-Mendex, 2003; Skiba & Rausch, 2006 in Skiba et al., 2006), negative outcomes for which youth in foster care are already at higher risk.

This high rate of exclusionary discipline may be related to increased rates of behavioral and emotional difficulties exhibited by youth in foster care, lack of attachment to school and peers due to mobility, a lack of awareness among educators of the needs of youth in foster care, and potential targeting of youth in foster care by school administrators and educators based on prior experiences or bias due to stereotypes.ⁱⁱ Additionally, Zero Toleranceⁱⁱⁱ policies in schools have increased the stakes for many infractions, resulting in exclusionary discipline and discipline issues that are transferred to the criminal justice system instead of being dealt with at the school (Skiba et al., 2006).

The Zero Tolerance Task Force (Task Force) report (Skiba et al., 2006) recommends a restorative justice approach as a primary violence prevention strategy in schools. By creating an environment of supportive relationships between students and adults that provides attention and respect to high-risk youth, it is expected that youth will be more invested in their school community and thus less likely to re-offend if they have offended in the past. Youth in foster care are often unable to participate in after school or extracurricular activities, where a sense of belonging and positive school relationships can be built. They need to feel that they are part of the community, and therefore respect the rules of the community. Schools that implement a restorative justice approach can cultivate an environment that prevents the need for exclusionary discipline.

The Task Force report also includes many specific strategies for school disciplinary policies. One that is particularly salient for youth in foster care is: “define all infractions, whether major or minor, carefully, and train all staff in appropriate means of handling each infraction” (Skiba et al., 2006, p. 99). A lack of definition of infractions, as well as the school disciplinary code for handling these, allows for greater room for bias (Skiba et al., 2006). Using this strategy is a tool to address any potential bias against youth in foster care. Particularly for youth in foster care who may not have had consistent discipline at home, defining infractions and the associated discipline is critical for their self-awareness and feelings of fair and equal treatment by school staff.

The recommendation to “Replace one-size-fits-all disciplinary strategies with graduated systems of discipline, wherein consequences are geared to the seriousness of the infraction” (Skiba et al., 2006, p. 100) is especially important when considering the disciplinary options for youth in care. This would involve providing teachers with a schedule of graduated disciplinary actions, ranging from parent contact, counseling and community service for minor offenses up to severe punishments reserved only for the most serious offenses. Even for severe offenses, removal from school should not be automatic. The Task Force recommends that “the school policy should

outline a continuum of possible actions and consequences, and give guidance to educators regarding the recommended consequences for a given severity of behavior” (p. 101). Excluding youth in foster care from school could severely damage their educational and behavioral health.

Programs such as mentoring, social skills training and anger management to reconnect students with the educational process can also curtail delinquency at an early stage (Skiba et al., 2006). These programs provide the nurturing supports that are essential for youth in foster care to succeed in school, particularly when they involve the foster parents or other family members. Also, using threat assessment, instead of profiling, is recommended to ensure that at-risk youth feel more connected to their school community (Skiba et al., 2006). Whereas profiling makes assumptions based on previous experiences with a member of particular group (e.g., youth in foster care targeted for discipline due to past offenses committed by other youth in care), threat assessment identifies the seriousness of a given threat to determine disciplinary action. Using this practice will prevent youth from feeling targeted and can also help prevent youth in foster care from being given harsher penalties than peers who are not in foster care.

Therapeutic Behavioral Interventions to Prevent Delinquency and Enhance Educational Achievement

Youth in foster care are at a high risk of behavioral issues and school failure, which can increase risk of delinquency and criminal behavior as adults. Increasing access to therapeutic services and supports can improve educational outcomes for young adults. Research conducted by the *Blueprints for Violence Prevention* and meta-analysis research conducted by other professionals indicates that some interventions are promising or have been demonstrated as effective in reducing delinquency for some populations (Greenwood, 2010). Some programs that are particularly relevant for youth in care and foster families are briefly described below.

Project STATUS is a school-based program that aims to improve high school climates and reduce delinquency and drop-outs (Greenwood, 2010). While Project STATUS is not targeted at youth in foster care or at-risk youth specifically, it uses collaborative efforts to improve school climate. This is paired with a year-long English and social studies class focused on key social institutions to foster academic success, social bonding and lessen peer pressure and delinquency (Greenwood, 2010). For youth in foster care, participating in a program such as Project STATUS could provide a way to encourage social networking and connection to the school community that the youth may lack due to school mobility.

The School Transitional Environmental Program (STEP) aims to provide intensive support in school to students at greatest risk for behavioral problems. In STEP, the homeroom teacher takes on the additional role of guidance counselor. STEP is designed to reduce the complexity of school environments, increase peer and teacher support, and decrease student vulnerability to academic and emotional difficulties (Greenwood, 2010). STEP participants have better attendance, lower drop-out rates, increased academic success, and more positive feelings about school (Greenwood, 2010). This supportive intervention shows great promise for youth in foster care, given that they may lack parents who can provide knowledge and information on how to navigate the complex school environment.

Not only is it important for the education system to implement therapeutic school-based interventions such as these, but caseworkers also need to be aware of these programs and encourage the youth on their caseload to participate where appropriate. This requires communication between the two systems to ensure the youth is connected to supportive services.

Family based therapies, such as Functional Family Therapy (FFT) and Multisystemic Therapy (MST) are targeted at family interactions and providing skills to the parents. FFT is intended to improve family problem-solving skills, emotional connections and parenting skills (Greenwood, 2010). MST is a more intensive family-based program intended to empower parents to more effectively address youth behavior problems, including poor school performance and engaging in negative peer groups (Greenwood, 2010). These therapeutic interventions can be implemented with the foster family, once a youth is in a placement, or with the birth family, if the plan is for the youth to be quickly reunited. Involving the entire family in treatment demonstrates that their family is supportive of them and dedicated to helping them be successful.

Multidimensional Treatment Foster Care (MTFC) is an alternative to group homes for youth who have committed crimes, but do not pose a serious risk to themselves or others. In MTFC, highly trained specialty foster parents learn behavioral techniques for a therapeutic living environment and work closely with the youth, under case worker supervision (Greenwood, 2010). Additionally, family therapy is provided for the youth's biological family, if appropriate. MTFC uses therapeutic services to provide these youth with the benefits of a nurturing family that they otherwise may not have had. MTFC has resulted in decreased arrest rates for participants compared to youth who are placed in group homes (Greenwood, 2010).

Training for Educators and Administrators

School personnel should receive foundational training at pre-service and in-service on the unique issues and circumstances of youth in foster care. In particular, they should be knowledgeable on the specific educational needs of these youth, their vulnerability to delinquency and the justice system, and their frequent involvement in other systems of care (e.g., mental health). More advanced training on strategies and interventions, such as those just discussed, should also be presented and discussed with educators and administrators. It is critical that school staff are aware of the consequences of disciplinary actions on youth in foster care. They must also be aware of school-based interventions that can mitigate the downward slide to school failure and delinquency and crime.

The California Foster Youth Education Task Force was created as part of California's AB 490, which is aimed at improving the educational experiences of youth who are in foster care and those who are in the delinquency system or who are under the care of child welfare in general (Leone & Weinberg, 2010). This group created a factsheet^{iv} that includes the state's specific school discipline policies, including examples of when suspension and expulsion are to be used, with specific examples coming from California's legal code. This sheet is also available for youth with disabilities. The fact sheet is a good example of a tool for presenting educators with what is required by law when working with youth in foster care.

Transition Services

Youth who were served in foster care have poor adult outcomes in general, and specifically, high odds of becoming involved in criminal activity as adults. The transition to adulthood is a tumultuous and challenging time for youth who live with their birth families; it is even more challenging for those youth who are being served in child welfare and age out of the system when they turn 18 with very little support or guidance to help them succeed. The benefits of receiving foster care services after the age of eighteen as well as thorough transition services are demonstrated in several studies examining educational achievement (Courtney et al., 2007; Courtney et al., 2005; Havalchak et al., 2009; Pecora et al., 2005).

Access to services and programs needs to be extended past the age of eighteen for youth in care, as this is a critical time when young adults need family and system support in completing education and navigating the transition to adulthood (Osgood & Courtney, 2010). Comprehensive

transition services are also essential to help support youth as they prepare for and exit foster care. These should include educational supports, particularly counseling and information about navigating financial aid and scholarship guidelines. Transition services should be available for several years after exiting care (not just at one discrete point in time) so youth can access supports at the point when they become ready (e.g., independent living services, post-secondary education financial assistance).

MULTI-SYSTEM COLLABORATION

Because youth in foster care have traditionally struggled in school and are at higher risk for negative educational outcomes, they need support and collaboration from both the child welfare and education systems. *Crossover youth* are youth in care who are also involved with the juvenile justice system. Adding another system into the picture only adds to the confusion and lack of accountability about who is responsible for ensuring youth success. Crossover youth therefore require even more integrated services. A growing body of research aims to develop strategies for practices that foster collaboration between systems to provide integrated services to youth in care, many of which are presented in the Leone & Weinberg (2010) report on meeting the needs of crossover youth, Casey Family Programs and Georgetown University's *Breakthrough Series Collaborative Report on Juvenile Justice and Child Welfare Collaboration* (2011) and the Child Welfare League of America's *Child Welfare & Juvenile Justice Systems Integration Initiative: A Promising Progress Report* (2008). The latter two reports provide valuable examples of jurisdictions (e.g., Miami-Dade County, FL; South Dakota; Los Angeles, CA.) implementing collaborative practices. All three reports stress the importance of improving communications at the state and local levels through cross-system teams and working groups. They also emphasize how critical data sharing among agencies is. Leone and Weinberg include a recommendation for using Educational liaisons, a recommendation that is particularly relevant to the foster care experience and improving educational outcomes, and thus deterring the crossover into justice.

Educational liaisons who work with youth in foster care and serve as the link between the child welfare and education systems can be a valuable tool in promoting educational success and preventing delinquency (Leone & Weinberg, 2010; Havalchak et al., 2009). The liaison can be an advocate or dedicated staff from the child welfare agency who works with the youth's school or a school employee who works closely with the child welfare agency. In either case, the liaison acts as an advocate for the youth in educating school personnel

and caseworkers about the unique needs of the youth and is responsible for ensuring that the youth's educational progress is monitored. One such program is the Education Liaison Model, which co-located education liaisons from the county's educational system in the child welfare offices (Weinberg, Zetlin, and Shea, 2004). Implementation of this model increased caseworker knowledge about programs that support youth in foster care, increased caseworkers' involvement in the educational process of the youth they were serving, increased the quality of educational documentation in youths' case files and improved academic achievement (Leone & Weinberg, 2010).

Casey's finding that youth served by more caseworkers predicted some better education outcomes and the possible explanations for why this may be the case speaks to the importance of education liaisons. Having a dedicated staff to advocate for and monitor a youth's educational progress, as well as ensure records are transferred in a timely manner and provide communication between agencies, could bolster a caseworker's support to youth regarding education, as well as fill in gaps that exist due to high caseworker caseloads.

FUTURE RESEARCH

A substantial amount of research demonstrates the links between foster care and criminal justice involvement, as well as the educational struggles of youth in foster care. However, research on the reasons for high rates of exclusionary disciplinary policies with youth in foster care is lacking, as are findings on the particular effect of Zero Tolerance policies on youth in care. Additionally, more research is needed to determine how evidence-based delinquency prevention strategies can most effectively be implemented for youth involved in child welfare.

LINK BETWEEN EXCLUSIONARY DISCIPLINE AND YOUTH IN FOSTER CARE

Are youth in foster care disproportionately affected by Zero Tolerance policies, what factors contribute to high rates of exclusionary discipline for youth in foster care, and what are the long-term effects?

While preliminary existing research shows that Zero Tolerance policies disproportionately affect youth of color and youth with disabilities, and both populations are in turn disproportionately represented in foster care, research has not been conducted to determine the effects on youth in care specifically. African American students are thought to be disciplined more severely due to lack of teacher preparation, inadequate training, or racial stereotypes (Skiba

et al., 2006). Profiling students to preemptively target problem youth has increased with Zero Tolerance policies in schools, and this technique tends to over identify students from minority populations as potentially dangerous (Skiba et al., 2006). It is important to determine whether any of these same reasons also apply to youth in foster care and if they do, how to address them.

We know that exclusionary school discipline such as expulsion and suspension, which are key components to Zero Tolerance policies, are used for youth in foster care at higher rates than their peers (Scherr, 2007). However, research controlling for other behavioral and other factors is needed to determine what variables explain the higher rates of use of exclusionary discipline among youth in care. Additionally, the long-term effects of Zero Tolerance policies and exclusionary discipline on youth in care specifically need to be studied. This is necessary to determine if these experiences indeed result in even poorer outcomes for young adults who are already at high risk.

LONG-TERMS EFFECTS OF THERAPEUTIC BEHAVIORAL INTERVENTIONS IN PREVENTING DELINQUENCY IN YOUTH IN FOSTER CARE

Research on the effectiveness of school-based and family-based interventions to prevent delinquency among youth in foster care is needed. While these interventions have proven effective with general at-risk populations, most interventions lack research specific to foster care.

CONCLUSION

Many of the thousands of youth being served in the foster care system struggle to succeed in school and are at higher risk of becoming involved in the justice system both as juveniles and as adults. They change schools frequently and are more likely to be expelled or suspended than their peers who are not in foster care. They are more likely to be diagnosed with mental health and behavioral problems and be placed in special education than their peers. To succeed, these youth must have foster care experiences that promote educational success, be targeted for extra supports and interventions in school, be fairly disciplined, and be served by an integrated array of services from multiple agencies. As former federal prosecutor and foster care advocate Miriam Krinsky states, “Ensuring education support, stability and oversight for youth in foster care could go far in slowing the crossing of these youth into juvenile justice” (2010).

While disciplinary policies, school community-building and educational supports such as tutoring and mentoring programs are important for all students to achieve success in school, tailoring them to the unique needs of youth in foster care is especially critical given the adversities these youth have experienced throughout childhood and the heightened risks they face as a result. Further research must be conducted and attention given to this vulnerable population in order to keep them in school and out of the justice system.

NOTES

1. ACLU, retrieved 1/2012 from <http://www.aclu.org/racial-justice/school-prison-pipeline>
2. Scherr (2007) discusses the possibility of youth in care being unfairly targeted for severe school discipline by “unprepared systems,” p.431.
3. NCES report defines Zero Tolerance as “school or district policy mandating predetermined consequences for various student offenses” see Heaviside et al., 1998, p.7 qtd. in Skiba et al., 2006.
4. Vesecky, Woodward, & Levine, <http://www.fosteryouthhelp.ca.gov/pdfs/CAFYETFFactsheets.pdf>
5. For more information see: Breakthrough Series Collaborative on Juvenile Justice and Child Welfare Integration at http://www.casey.org/resources/publications/BreakthroughSeries_JuvenileJustice.htm and Child Welfare & Juvenile Justice Systems Integration Initiative: A Promising Progress Report at <http://www.cwla.org/programs/juvenilejustice/jjprogressreport.pdf>

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STEMMING THE TIDE: PROMISING LEGISLATION TO REDUCE SCHOOL REFERRALS TO THE COURTS

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This article will examine legislation around the country designed to decrease school referrals to the courts. The legislation highlighted addresses the actions to be taken within school systems, the role of the judiciary, and the engagement of multi-stakeholder groups in delinquency adjudication and disposition hearings. This article will highlight state legislation that holds promise for shifting the landscape: identifying appropriate cases to be handled by the school rather than the court system, improving the school system's capacity to address disruptions, and better clarifying the role of courts, probation and the schools in addressing student misconduct.

Since the mid-1990s, court dockets have swelled, often with referrals of youth charged with non-violent offenses that once would have been handled internally by school discipline systems. Heightened court involvement in school-based offenses burdens the courts and interferes with the educational process. It prevents jurisdictions from drawing on a longstanding strength of schools: promoting social learning through effective discipline strategies. Moreover, although increased court-involvement in school-based misconduct does not make schools safer, it does hinder learning not only for the disciplined students but for their peers as well.

“Zero tolerance” laws and policies in schools – those requiring suspensions, expulsions, and court referrals as a response to school-based misbehavior – play a central role in the growing school-to-prison pipeline. Many zero tolerance policies dictate that certain school-based offenses

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be referred to police. Even without direct referrals, however, suspension and expulsion often lead to a student's first steps toward justice system entanglement. One study showed that a student who is suspended or expelled is nearly three times more likely to be in contact with the juvenile justice system the following year, even controlling for individual characteristics and environmental factors.¹ Studies have also shown that suspensions and expulsions lead to severe racial disparities.² Thus, exclusionary discipline policies risk exacerbating already troubling racial disproportionality in the justice system.³ Once students enter the juvenile justice system, the problems continue. Compared with their peers, youth of color are disproportionately arrested, detained, confined, and referred to adult court.⁴ Additionally, studies show that too frequently justice system involvement – and particularly secure confinement – *increases* recidivism⁵ and heightens the chance that a youth will drop out or be pushed out-of-school.⁶

While national statistics are alarming, many states have begun to pass legislation to stem the tide of the school-to-prison pipeline.⁷ While not a comprehensive survey, this article provides examples of such legislation. We start at the front end of the problem, with legislation that aims to improve school climate by teaching positive behaviors in schools, limiting the use of exclusionary discipline and reducing justice system referrals. We then examine legislation that engages the courts in preventing deeper system involvement for those youth who are referred from the schools. Finally, we consider legislation focused on educational reintegration; even when youth are referred to the justice system, with the right supports in place, they can complete school successfully upon their return.

We hope that this article will provide a starting point for states interested in instituting policies that push back at the school-to-prison pipeline. The legislative examples in this article suggest that such states should consider (1) equipping schools to address behavior issues without reliance on exclusionary policies and referrals to the courts; (2) engaging the court system in filtering out unnecessary cases; and (3) ensuring that youth who do enter the justice system are not precluded from completing their education. Although the article addresses reforms by issue rather than by state, it is important to note that some states – perhaps the most successful – have employed multi-faceted approaches to reform, seeking to address various aspects of the school-to-prison pipeline simultaneously.⁸ We hope that states will consider these state-level reforms⁹ examine data on their efficacy, consult with a range of stakeholders in their jurisdictions, and ultimately, replicate the successes throughout the country.¹⁰

DISMANTLING THE SCHOOL-TO-PRISON PIPELINE BY IMPROVING SCHOOL PRACTICES

According to the U.S. Department of Education’s Office for Civil Rights (OCR), over 3 million students are suspended at least once each year and over 100,000 are expelled.¹¹ These numbers represent record highs in U.S. public school discipline rates. OCR data further reveals that African-American students are nearly three times as likely to be suspended and three and a half times as likely to be expelled as white students and Latino students are one-and-a-half times as likely to be suspended and twice as likely to be expelled as their white peers. Another study found that African American students are 31 percent more likely to be disciplined than their white peers, even when controlling for the nature of the misbehavior and 80 other characteristics.¹² Zero tolerance policies increase justice system involvement and decrease academic achievement, particularly for youth of color, but do not make schools safer. In fact, zero tolerance policies contribute to worse academic outcomes of all students, even those not being disciplined.¹³ In contrast, as described below, additional research has documented the effectiveness of various evidence-based disciplinary practices which aim to prevent misbehavior, improve school climate and safety, and reduce school-based referrals to the juvenile justice system. Below, we highlight key elements of state legislative examples that show promise – including those that focus on creating a positive school climate, and those that explicitly combat zero tolerance policies.

PROMOTING POSITIVE SCHOOL DISCIPLINE STRATEGIES

Researchers have identified evidence-based practices that decrease incidents of school misbehavior, including violent misbehavior; reduce the need for exclusionary disciplinary practices or referrals to the justice system and improve academic performance among all students. School-Wide Positive Behavioral Supports (SWPBS)—also referred to as Positive Behavioral Interventions and Supports (PBIS),¹⁴ restorative justice¹⁵ and trauma-informed education¹⁶ are examples of these practices. PBIS is the only such approach directly supported by federal law, the Individuals with Disabilities Education Act requires consideration of PBIS in an eligible students individualized education program.¹⁷

States vary in their approach to legislation promoting social and emotional learning. Some statutes incorporate broad standards, while others mandate specific practices. In 2004, Illinois became the only state to

pass legislation to incorporate social and emotional development standards into the state's overall Learning Standards.¹⁸ Since the Illinois State Board of Education adopted the standards in social and emotional learning (SEL), Illinois school districts have complied through a variety of approaches. Many Illinois schools implemented SWPBS, recognizing its overlap with the SEL standards. Today Illinois has more SWPBS schools than any other state in the country; more than 35 percent of all public schools in the state use SWPBS.¹⁹

In contrast, some jurisdictions implement PBIS in a more targeted fashion. For example, Maryland explicitly mandates the use of PBIS or an alternative behavior modification program for schools demonstrating high rates of discipline. A Maryland statute and implementing regulation mandate that each county school board require all elementary schools with suspension rates of 10 percent or higher and truancy rates of one to two percent or higher (depending on the year) to implement either a PBIS program or an alternative behavior modification program in collaboration with the Department of Education. Any school that has already implemented PBIS, but continues to have high suspension or truancy rates must "expand its existing program."²⁰ There are currently over 400 PBIS schools in Maryland.²¹

Massachusetts, in contrast, addresses trauma and behavioral health as a means of improving school climate and reducing exclusionary discipline. In 2004, the state established a grant program to create "trauma-sensitive schools." Such schools address the "educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence."²² In 2008, legislation required the establishment of a Behavioral Health Task Force charged with creating a framework for safe and supportive whole-school environments "where children with behavioral health needs" can better form relationships with adults and peers, regulate behaviors, improve school success, and reduce truancy and drop out. The Task Force was charged with, among other things, promoting collaboration between schools and behavioral health services; creating a framework to assess the availability of behavioral health services versus high rates of suspensions, expulsions and other punitive responses in schools, and to address professional development for school personnel and behavioral health service providers. The Task Force report advised that "[r]ather than a 'zero tolerance' approach" schools should promote a proactive approach to students with challenging behaviors such as school-based behavioral health services, linkages to community services, referrals to wraparound programs and, other services that have the "aim of keeping these students in class and in school."²³

Other states have included restorative practices as an element of their legislation on these issues. For example, a Colorado Task Force charged with addressing excessive and exclusionary discipline recommended legislation to permit mandatory out-of-school suspensions and expulsions only for incidents that pose serious and credible threats to schools. The legislation would also encourage schools to address school safety through prevention, intervention and other restorative justice principles rather than arrests or referrals to law enforcement.²⁴ These statewide recommendations followed the implementation of a new disciplinary code in the Denver School District, premised on the same principles. According to one report, the Denver School District's suspension and arrest rates have decreased significantly since the implementation of the new code.²⁵

LIMITING EXCLUSIONARY DISCIPLINE AND REFERRALS TO LAW ENFORCEMENT

In recognition of the failures of zero tolerance policies, a number of states have explicitly limited reliance on exclusionary discipline and referrals to law enforcement. North Carolina legislation recognizes the harms of exclusionary discipline, stating that the “removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout.”²⁶ The law limits the use of suspensions and expulsions to only the most serious violations of school codes of conducts, and limits the use of mandatory exclusionary discipline.²⁷ The law further mandates that school board policies must allow superintendents to look individually at each incident involving the alleged misbehavior of a student and to take into account all of the circumstances surrounding the incident in determining appropriate discipline.²⁸

Similarly, while Georgia has not rejected zero tolerance wholesale,²⁹ state law now requires the use of progressive discipline processes. That means that “the degree of discipline will be in proportion to the severity of the behavior leading to the discipline, [and] that the previous discipline history of the student being disciplined and other relevant factors will be taken into account.”³⁰ The law requires school districts to develop “age-appropriate student codes of conduct containing standards of behavior, a student support process, a progressive discipline process, and a parental involvement process.”³¹ The provision further requires the Georgia Department of Education to “make available...model student codes of conduct, a model student support process, a model progressive discipline process, and a model parental involvement process.”³² The law also indicates a preference for alternative education settings over suspension and expulsion.³³

Tennessee law focuses directly on the issue of referrals from schools to law enforcement. It prohibits such referrals for any offense other than the most serious incidents of misconduct, providing that “any fight not involving the use of a weapon” or “not resulting in serious personal injury” should be reported only to the school and not to law enforcement.³⁴

These jurisdictions demonstrate that alternatives to zero tolerance are possible at the state level. States can limit reliance on the courts, and focus instead on promoting evidence-based practices and increasing the capacity of schools to promote social and emotional growth.

DISMANTLING THE PIPELINE THROUGH THE COURTS

A school expulsion, referral, or arrest is merely the first step in the school-to-prison pipeline. Once a student is referred, courts and probation have the authority to turn away cases that need not be addressed by the juvenile or criminal justice system. Often, this happens as a matter of course – not because of specific legislation, but because probation officers or judges filter cases as part of their core function of meeting the individual needs of youth in the juvenile justice system.³⁵ Additionally, judges in a number of jurisdictions have taken the initiative, without legislation, to convene multiple stakeholders, often including courts, probation, and schools, to address the school-to-prison pipeline – with positive results.³⁶

One straightforward example of legislation changing judicial behavior is a Connecticut law that provides for judicial discretion to suspend delinquency proceedings in exchange for a student’s participation in school-based violence prevention programs.³⁷ By connecting the judicial determination directly with a school-based solution, the legislation aims to redirect both systems – courts and education – to develop appropriate school-based solutions to discipline problems.

For youth who do get involved in the juvenile justice system, some states prioritize community-based treatment that keeps youth living at home and therefore enrolled in their home school. In Washington State, for example, legislation promoting evidence-based responses to delinquency identified four practices for state funding, including functional family therapy and multi-systemic therapy. By keeping youth in their own homes, these approaches can limit educational disruptions. Moreover, multi-systemic therapy’s focus on identifying strengths in the youth’s community often means that a therapist will identify individuals or activities within the school that can better connect youth to pro-social activities.³⁸ As a result, the therapy may end up assisting the school in developing a more positive climate.

Other states, such as New Hampshire, engage the school system in the court process in order to support school continuity. New Hampshire law requires the appearance of a representative from a student's home school district at adjudication and disposition hearings where a placement would necessitate a school change.³⁹ The legislation thus provides an opportunity to promote school continuity. However, the law also runs the risk of promoting school push-out, since school personnel may advocate for the court to remove difficult students. The model might better serve the goal of school continuity if it contained an explicit presumption that youth should remain in their original school whenever possible, and if it limited the role of school personnel to discussing educational issues and school continuity.

State law also supports the efforts of courts in brokering multi-stakeholder solutions to the school-to-prison pipeline. New Hampshire legislation establishes a Juvenile Justice Advisory Board consisting of family court judges, juvenile justice directors, Department of Education commissioner, juvenile probation and parole officers, and at least two parents of children who receive services. The mission of the Board is to make recommendations for programs and services.⁴⁰ While the Board's mission doesn't focus explicitly on diverting youth from the justice system, it provides a structure that could be used for that purpose.⁴¹ In Iowa, legislation mandates interagency agreements between the juvenile justice system and local education officials that could also be used to address school-to-prison pipeline issues. Agreements must provide for information-sharing to "improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions."⁴²

STEMMING THE TIDE BY FACILITATING REENTRY

Returning to school places youth in a better position to seek employment as they age into adulthood and has shown to reduce recidivism rates.⁴³ Nonetheless, once youth enter the justice system, many are pushed out or drop out-of-school. Researchers have estimated that 100,000 youth are released from juvenile placements annually in the United States.⁴⁴ As mentioned earlier, dropout rates are exceptionally high for this population. In Philadelphia, for example, 90 percent of youth who enter the justice system do not complete high school.⁴⁵ A host of factors contribute to this problem: the educational disruption itself, the low quality of education in many juvenile justice facilities, and the challenges of re-entry to school systems reluctant to enroll system-involved youth. Developing clear policies that clarify roles

and responsibilities and ensure smooth transitions can make a significant difference in outcomes for youth.⁴⁶

A number of states address reentry issues by ensuring that youths' needs are met while they are in the system. Without such legislation, youth often face sub-standard education, including special education in juvenile justice facilities, making it extremely challenging for them to keep up with their classmates and re-enter school upon their return.⁴⁷ To address this problem, Maine law requires that providers of education in juvenile justice facilities meet the standards set forth for all public schools.⁴⁸ Other states focus more on meeting the needs of individual students. Florida and New Hampshire, for example, require individualized education plans upon entry to facilities.⁴⁹ To further ensure that youths' individual needs are met, legislation in the District of Columbia authorizes juvenile court judges to appoint lawyers to address a variety of matters. An administrative order has clarified that this includes lawyers to address special education matters.⁵⁰

Even when youth receive quality education in an institution, transitions between schools can disrupt education and ultimately discourage youth from completing their education. As a result, in a number of states, legislation requires coordination between the school system and the juvenile justice system to promote smooth transitions between education providers and to ensure adequate services. Florida legislation, for example, requires transition planning, mandates the appointment of education coordinators within education and justice agencies, mandates that home schools maintain education records even for confined youth, and requires home schools to accept full and partial credits upon students' return from placement.⁵¹

One promising legislative approach to the re-entry problem is the establishment of transition teams.⁵² West Virginia law, for example, requires comprehensive aftercare plans by a multi-disciplinary team, including a plan for the youth's re-entry to school upon discharge from placement.⁵³ The plan must be sent to the school principal, among others.⁵⁴ Similarly, Virginia law requires the development of a school re-enrollment plan for any juvenile of compulsory school age.⁵⁵ Regulations promulgated pursuant to the law require a coordinated transition team to oversee the development of the plan during a youth's incarceration⁵⁶ so that youth are re-enrolled in school and receiving instruction within two days after release.⁵⁷ Regulations also require the transition team to consult the student in the development of a plan best suited to his or her individual needs,⁵⁸ and to engage the parent or guardian in the planning process.⁵⁹ The plan must include details regarding the student's academic program and individualized education program under the IDEA,

and the process requires sufficient notification to the school to allow for prompt and appropriate enrollment of the student.⁶⁰

Transition planning alone will not suffice if schools continue to push out justice-involved youth upon their release. As a result, legislation in some states focuses explicitly on the duties of the home school district. West Virginia law, for example, requires that all school districts cooperate in transferring educational records and accepting credits earned toward graduation by youth re-entering from placement.⁶¹ Similarly, Virginia regulations explicitly establish that the reenrollment plan “shall make it possible for the student to enroll and receive instruction in the receiving school district within two school days of release,” and clarify that “after the Department of Juvenile Justice gives notice of a student’s scheduled release, the student may not be suspended or expelled from school programs for the offenses for which he was committed.” They also require the home school district to maintain the student’s academic record.⁶² Maine places the burden on the home school to convene a reintegration team consisting of a school administrator and teacher, a parent or guardian, and a guidance counselor within ten days after receiving notice from the juvenile justice system that a student will be returning, to help identify the child’s needs and minimize the transition challenges.⁶³

While front end approaches are a priority, these efforts toward reentry planning and educational success for youth in the juvenile justice system are also vital. Addressing educational reentry will mean that youth who do enter the system can continue their education, and that the pipeline into the justice system is not the end of the story.

CONCLUSION

In the past 15 years, there has been a strong push toward school exclusion. At the front end, youth who disobey school rules face suspension and expulsion. At the back end, students become court involved, and, too often, enter juvenile justice facilities. However, states today are pushing the pendulum back toward inclusion by developing policies that keep youth in school in the first instance, prevent deeper justice system involvement, or help students reenter school after a secure placement. States implementing such policies, and advocates supporting them, should engage in further research to identify which of these practices yields the best results for improving school climate and academic performance, reducing racial disparities, and dismantling the school-to-prison pipeline, and which are most appropriate to the unique needs of the jurisdiction. The research on the underlying approaches, however, suggests that such policies show promise for easing the burden on the courts and creating safer and more

academically successful schools.

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²ADVANCEMENT PROJECT, TEST, PUNISH, AND PUSHOUT: HOW "ZERO TOLERANCE" AND HIGH-STAKES TESTING FUNNEL YOUTH INTO THE SCHOOL-TO-PRISON PIPELINE 20-23 (2010), available at http://www.advancementproject.org/sites/default/files/publications/rev_fin.pdf; see also DANIEL LOSEN & RUSSELL SKIBA, SUSPENDED EDUCATION: URBAN MIDDLE SCHOOLS IN CRISIS (2010), available at http://www.indiana.edu/~equity/docs/Losen_Skiba__Suspended_Education.pdf.

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⁴Id.

⁵RICHARD MENDEL, THE ANNIE E. CASEY FOUND., NO PLACE FOR KIDS: THE CASE FOR REDUCING JUVENILE INCARCERATION 4 (2011), available at http://www.aecf.org/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/JJ_NoPlaceForKids_Full.pdf.

⁶See, e.g., RUTH CURRAN NEILD & ROBERT BALFANZ, PROJECT U-TURN, UNFULFILLED PROMISE; THE DIMENSIONS AND CHARACTERISTICS OF PHILADELPHIA'S DROPOUT CRISIS

2000-2005 5 (2006) available at http://www.pyninc.org/downloads/Unfulfilled_Promise_Project_U-turn.pdf.

⁷Similar policy initiatives have also been passed at the Federal and local levels, but we have chosen to focus on Statewide legislation in this article.

⁸See, e.g. Ind. Code § 20-26-5-32 (2009) (promoting family engagement, requiring data collection and review of exclusionary discipline, and encouraging the use of counseling and evidence-based practices to promote a positive school climate).

⁹As some of the states highlighted here have done, we hope that states will also look to innovative and successful local policies as they develop their legislation.

¹⁰While it is beyond the scope of this article to provide data on the efficacy of the legislative models, we have included research on various approaches where available.

¹¹OFFICE FOR CIV. RTS., U.S. DEP'T OF EDUC., 2006 CIVIL RIGHTS DATA COLLECTION: PROJECTED VALUES FOR THE NATION (2008), available at <http://ocrdata.ed.gov/downloads/projections/2006/2006-nation-projection.xls>. The report is based on 2006 OCR data. New data is expected in early 2012.

¹²FABELO ET AL., *supra* note 1, at x.

¹³Am. Psychol. Ass'n Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, 63 *American Psychologist* 852 (2008).

¹⁴SWPBS has been described, not as a “program” in and of itself, rather as “a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavior outcomes for all students.” See OFFICE OF SPECIAL EDUC. PROGRAMS, CTR. ON POSITIVE BEHAVIORAL INTERVENTIONS, U.S. DEP'T OF EDUC., *PBIS FREQUENTLY ASKED QUESTIONS*, http://www.pbis.org/pbis_faq.aspx; Controlled studies have consistently found that, when schools implement SWPBS with fidelity they see dramatic reductions in school referrals, improved school climate, and even improved academic achievement. See Robert H. Horner et al., *A Randomized, Wait-List Controlled Effectiveness Trial Assessing School-Wide Positive Behavior Support in Elementary Schools*, 11 *JOURNAL OF POSITIVE BEHAVIOR INTERVENTIONS* 133-144 (2009); Catherine P. Bradshaw et al., *Examining the Effects of Schoolwide Positive Behavioral Interventions and Supports on Student Outcomes: Results*

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¹⁶MASS. ADVOC. FOR CHILDREN, TRAUMA & LEARNING POLICY INITIATIVE, *HELPING TRAUMATIZED CHILDREN LEARN: SUPPORTIVE SCHOOL ENVIRONMENTS FOR CHILDREN TRAUMATIZED BY FAMILY VIOLENCE* (2005), available at <http://www.massadvocates.org/download-book.php>.

¹⁷20 U.S.C. §1414(d)(3)(B)(i). In Oct.2011 the bi-partisan Positive Behavior for Safe and Effective Schools Act, H.R. 3165, was introduced. Among other features, the bill requires that states and local education agencies focus on improving schoolwide learning climates through the use of SWPBS and other means.

¹⁸Section 15(a) of Public Act 93-0495 (405 ILCS 49/15) (calling upon the Illinois State Board of Education to “develop and implement a plan to incorporate social and emotional development standards as part of the Illinois Learning Standards.”); ILL. STATE BD. OF EDUC., *ILLINOIS LEARNING STANDARDS: SOCIAL/EMOTIONAL LEARNING (SEL)*, available at http://www.isbe.net/ils/social_emotional/standards.htm.

¹⁹ILLINOIS PBIS NETWORK, *FY2011 END OF YEAR REPORT*, available at <http://www.pbisillinois.org/publications/reports>.

²⁰MD. CODE ANN., EDUCATION I 7-304.1; Md. Code Regs. 13A.08.06.01 (2011).

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³⁵For more on case theories to address the school-to-prison pipeline, see Marsha L. Levick and Robert G. Schwartz, *Changing The Narrative*:

Convincing Courts To Distinguish Between Misbehavior And Criminal Conduct In School Referral Cases, 9 UDC-DCSL L. Rev. 53, 2007.

³⁶The work of Judge Teske in Clayton County, Georgia is perhaps the most notable example of this work: the collaboration there, which includes an agreement to refer only the more serious offenses to court, has led to a 68% reduction in referrals to the courts, a drastic decrease in the number of in-school weapons offenses, a reduction in disproportionate minority referrals and an increase in graduation rates. Judge Stephen Teske, Presentation on Community Involvement for Children in Juvenile Court at the Georgia Child Welfare Legal Academy (Sept. 5, 2009), available at <http://www.law.emory.edu/centers-clinics/barton-child-law-policy-center/presentations.html>.

³⁷Conn. Gen. Stat. § 46b-133e (proceedings can be suspended for one year while child participates in anger management and conflict resolution counseling sessions designed to both benefit the juvenile offender and advance the interest of justice)

³⁸See, e.g. COAL. FOR EVIDENCE-BASED POL'Y, MULTI-SYSTEMIC THERAPY FOR JUVENILE OFFENDERS, available at http://evidencebasedprograms.org/wordpress/?page_id=120.

³⁹N.H. Rev. Stat. § 169-B:16(VI), 19(IX).

⁴⁰N.H. REV. STAT. ANN. 62-A:9 (2011).

⁴¹Id. Each state has such a Board, pursuant to the Juvenile Justice and Delinquency Prevention Act, although not all implementing statutes require participation by the judiciary. The authors note that in Pennsylvania, the Board, which includes representation of the judiciary, does address re-entry issues, including school re-entry.

⁴²I.C.A. § 280.25

⁴³I.C.A. § 280.25

⁴⁴See CORA ROY-STEVENSON, U.S. DEP'T OF JUST., OFF. OF JUV. JUST. & DELINQ. PREVENTION, OVERCOMING BARRIERS TO SCHOOL REENTRY, OJJDP FACT SHEET (Oct. 2004), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/fs200403.pdf>.

⁴⁵See OFF. OF JUV. JUST. AND DELINQ. PREVENTION, JUVENILE OFFENDERS AND VICTIMS: 2006 NATIONAL REPORT 232 (2006), available at <http://www.ojjdp.gov/ojstatbb/nr2006/downloads/NR2006.pdf>; PAT ARTHUR, NAT'L CTR. FOR YOUTH LAW, ISSUES FACED BY JUVENILES LEAVING CUSTODY: BREAKING DOWN THE BARRIERS 2 (2007), <http://www.youthlaw.org/events/trainings/>

juvenile_justice_training_materials/ (follow hyperlink to PowerPoint presentation).

⁴⁶RUTH CURRAN NEILD & ROBERT BALFANZ, PROJECT U-TURN, UNFULFILLED PROMISE; THE DIMENSIONS AND CHARACTERISTICS OF PHILADELPHIA'S DROPOUT CRISIS 2000-2005 5 (2006) available at http://www.pyninc.org/downloads/Unfulfilled_Promise_Project_U-turn.pdf.

⁴⁷JUST CHILDREN, LEGAL AID JUST. CTR., A SUMMARY OF BEST PRACTICES IN SCHOOL REENTRY FOR INCARCERATED YOUTH RETURNING HOME (Nov. 2004), available at <http://www.justice4all.org/files/Reenrollment%20--%2004%20Best%20Practices%20with%2006%20Preface.pdf>.

⁴⁸See MARY M. QUINN, ROBERT B. RUTHERFORD, JR., & PETER E. LEONE, COUNCIL FOR EXCEPTIONAL CHILDREN, STUDENTS WITH DISABILITIES IN CORRECTIONAL FACILITIES (2001), available at <http://www.ccc.sped.org/AM/Template.cfm?Section=Home&CONTENTID=2459&TEMPLATE=/CM/ContentDisplay.cfm&CAT=none>; Peter E. Leone & Sheri Meisel, Improving Education Services for Students in Detention and Confinement Facilities, 17 CHILD. LEGAL RTS. J. 2, 5-7 (1997); ANDREA J. SEDLAK & KARLA S. MCPHERSON, U.S. DEP'T OF JUST., OFF. OF JUV. JUST. & DELINQ. PREVENTION, YOUTH NEEDS AND SERVICES: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENTS, JUV. JUST. BULL. 6 (Apr. 2010), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/227728.pdf>.

⁴⁹ME. REV. STAT. ANN. 20-A. § 4502(1) (2011).

⁵⁰West's F.S.A. § 1003.51, Fla. Admin. Code r. 6A-6.05281 Additionally, the New Hampshire legislature requires schools districts of juveniles with disabilities to make specific recommendations in order to provide the appropriate services for the juvenile. N.H. Rev. Stat. § 169-B:22

⁵¹D.C. Code § 16-2304(a)(2011); District of Columbia Administrative Order No. 02-15 (April 26, 2002). While not legislatively mandated, the Supreme Court of Pennsylvania has promulgated rules requiring judges to make findings and issue orders about the juvenile's education at essentially every hearing in the delinquency process. 237 Pa. Code Rule 242, 512,1242, 1512 (2011)

⁵²See West's F.S.A. § 1003.52 (2011).

⁵³Jessica Feierman et al., The School-to-Prison Pipeline... and Back: Obstacles and Remedies for the Re-Enrollment of Adjudicated Youth, 54 N.Y.L. SCH. L. REV. 1115, 1126 (2009/10).

⁵⁴W.VA. CODE R. § 49-5-20(b) (2009).

⁵⁵Id.

⁵⁶VA Code Ann. § 16.1-293

⁵⁷Id. at § 20-660-30(A).

⁵⁸Id. at § 20-660-30(C)(1).

⁵⁹Id. at § 20-660-30(A)(4).

⁶⁰Id.

⁶¹Id.

⁶²Id.

⁶³8 VA. ADMIN. CODE § 20-660-40(C) (2009).

⁶⁴ME. REV. STAT. ANN. tit. 20-A, § 1055(12) (2009).

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COLLABORATIVE ROLE OF COURTS IN PROMOTING OUTCOMES FOR STUDENTS: THE RELATIONSHIP BETWEEN ARRESTS, GRADUATION RATES AND SCHOOL SAFETY

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Schools throughout the United States have adopted zero tolerance strategies to address school discipline. These policies have resulted in a significant increase in suspensions and expulsions. The placement of police on campus has exacerbated the problem by adding arrests and referrals to juvenile court as a disciplinary tool. This article discusses the origin of zero tolerance and its negative effects on school safety and graduation rates. This article will examine three jurisdictions and their application of a collaborative model using judicial leadership to convene stakeholders resulting in written protocols to reduce school arrests and suspensions and developing alternatives that have produced better outcomes for students, the school and the community.

We are a nation in crisis when it comes to educating our children. On one hand we promulgate laws to promote the education and welfare of children and on the other we implement policies that effectively push them out-of-school, creating what has been coined the “School-to-Prison Pipeline.” These competing approaches create a dysfunctional paradox that harms children and the community. In an effort to address school discipline, educators have adopted a zero tolerance approach resulting in a dramatic increase in out-of-school suspensions (OSS) and expulsions. The introduction of police on school campuses exacerbated the problem by adding arrest and incarceration as another disciplinary tool.

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The widespread use of zero tolerance policies is probative of educator's belief that such "get tough" strategies have value in correcting behavior and removing disruptive students. No matter the reason, zero tolerance policies deny recent research on adolescent brain development concluding that "mischief is a foreseeable derivative of adolescence" (Teske, 2011). Other studies show that zero tolerance strategies in general are ineffective, harmful to students and fail to improve school safety.

An analysis of the zero tolerance problem using a systems model reveals that school systems lack the resources to effectively address disruptive behavior, creating an over-reliance on zero tolerance strategies (Teske, 2011). The systems model, however, tends to focus on individual agencies and although helpful in identifying deficiencies, is not always helpful in identifying solutions when the problem is grounded in inter-organizational issues. Finding solutions to reverse the negative effects of zero tolerance, other than legislative changes, must involve those who are part of and involved in the problem. This approach is summed up in Richard Kempe's problem-solving quote, "A solution, to be a solution, must share some of the problem's characteristics." Zero tolerance, in most localities, is a multi-system problem and requires a multi-system approach for a solution.

In this article, we first define zero tolerance and explore its origins and why it is a problem that demands serious attention. We then present the framework for solving the zero tolerance dilemma using a Multi-Integrated Systems Model (Teske, 2011). We conclude with a discussion of the model's application and outcomes in three jurisdictions.

ZERO TOLERANCE: ITS ORIGIN AND OUTCOMES

The term "zero tolerance" has its roots in the 1980s "war on drugs." The government's attack on drugs led to stiffer penalties for users as well as dealers and an aggressive use of forfeiture laws to confiscate the fruits of the drug transactions including personal and real property (Kochan, 1998).

In 1982, the "Broken Windows" theory to combat urban crime arguably led to the application of zero tolerance approaches to minor offenses (Wilson & Kelling, 1982). The theory argues that the proliferation of crime is analogous to broken windows in a building that go unrepaired and attract vagrants. The vagrants break more windows and become squatters, who soon set fires to the building causing damage. Thus, effective crime prevention begins with tough measures against minor offenders.

During the early 1990s, school systems began adopting this “get tough” approach for minor school infractions using OSS for up to ten days and expulsions. By widening the net of infractions, the use of OSS nearly doubled from 1.7 million in 1974 to 3.1 million in 2000 (Poe-Yamagata & Jones, 2000). The most contradictory application of OSS involves truant students. Suspending a truant student is indicative of the inherent problems with zero tolerance policies in a school setting. It confounds the mind that professionals trained and certified to teach our children are duped into believing that suspending a student who doesn’t want to be in school is an effective tool. It is not surprising that some have referred to zero tolerance as “zero intelligence” (Richardson, 2002).

Zero tolerance can be defined as a “philosophy or policy that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the seriousness of behavior, mitigating circumstances, or situational context” (Skiba et al., 2006). The punitive nature of zero tolerance practices increased with the introduction of police on school campuses. What was typically handled in the principal’s office now involved a police officer with the power to arrest. In addition to suspension, students were handcuffed and transported to juvenile intake locations. The net for incarceration widened. The phenomenon is referred to as the “School-to-Prison Pipeline” (Wald & Losen, 2003).

School administrators apply zero tolerance practices believing that the removal of disruptive students will deter others from similar conduct, creating a safer classroom environment. This belief fails to take into consideration the growing body of research that zero tolerance is contrary to adolescent cognition and the role school plays as a protective buffer against delinquency.

The Surgeon General’s report on youth violence revealed that a child’s connection to school was a protective factor against risk factors for violence (U.S. Department of Health and Human Services, 2001). Other studies found that students’ belief that adults and peers in school care about them is related to lower levels of substance abuse, violence, suicide attempts, pregnancy and emotional distress (McNeely, Nonnemaker & Blum, 2002). Studies also reveal that this belief, referred to as school connectedness, is linked to school attendance, graduation rates and improved academics (Rosenfield, Richman & Bowman, 1998; Battin-Pearson et al., 2000).

Despite efforts by many juvenile judges to stop these minor school offenses from reaching their courtroom using informal intake diversion mechanisms, it still is not good enough. Research shows a strong link between school arrests and drop-out rates. One study found that a student arrested in school is twice as likely to drop out and four times as likely to drop out if

the student appears in court (Sweeten, 2006). Juvenile court judges should consider what steps can be taken to prevent unnecessary referral to the court.

Removing students from schools that serve as a buffer against delinquency is counterproductive to the goals of education, best practices in juvenile justice and community safety. Take for instance what we know about the importance of assessing the risk of juvenile offenders to determine the level of services needed to prevent re-offending. Studies show that recidivism is reduced among high risk youth if provided intensive interventions. Conversely, these same studies show that intensive interventions applied to low risk youth increase the risk of re-offending (Andrews, Bonta & Hoge, 1990). Applying these findings to zero tolerance strategies, the harsh treatment of students committing minor infractions increases the risk of anti-social and delinquent behaviors. Studies show that the use of OSS and arrests without consideration of the risk level of the student makes students' behavior worse (Andrews & Bonta, 1998; Mendez, 2003). Another study on the use of OSS of elementary and middle school students found that OSS is a predictor of future suspensions (Mendez, 2003). The study also found that OSS contributes to poor academic performance and failure to graduate. It should be common sense that keeping kids in school will increase graduation rates.

Zero tolerance as a philosophy and approach is contrary to the nature of adolescent cognition and disregards the research in adolescent brain development. The research using magnetic resonance imaging (MRI) found that the frontal lobe of the brain, which filters emotion into logical response, is not fully developed until about age 21 (Giedd et al., 1999). Adolescents are "biologically wired to exhibit risk-taking behaviors, impulsive responses, and exercise poor judgment" (Teske, 2011).

The implications of these studies within the context of zero tolerance approaches are important to show the negative impact on adolescents. The use of OSS and arrests for behavior that is neurologically normative for adolescents aggravates the existing challenges confronting youth. Neurologically speaking, youth are still under construction and require positive surroundings, including school (Giedd et al., 1999). Removing youth from school settings that serve as a protective buffer increases the probability of negative outcomes for the student, school and the community.

METHODOLOGY: MULTI-INTEGRATED SYSTEMS MODEL

A system is defined as “a set of interacting components, acting interdependently and sharing a common boundary separating the set of components from its environment” (Bozeman, 1979). As shown in Appendix Figure 1, the systems model analyzes organizations by taking into account their inputs in the form of demands and supports and their outputs (or desired outcomes) in the form of services or products. Obviously, it should be the objective of every system to maximize its desired outcomes, which can be achieved by identifying not only the best available resources but also the constraints on the system. This analytical model is called linear programming, which identifies “those values of x , the variables that maximize the linear objective z while simultaneously satisfying the imposed linear constraints and the non-negativity constraints” (Bozeman, 1979). In other words, identifying resources is not enough to realize the greatest outcome. It also requires identifying the factors that are working in opposition to the system or are non-supportive in order to act to minimize these constraints. The idea is to increase supports and decrease constraints.

Students bring to school their unique characteristics, some of which produce negative behaviors (Barber & Olsen, 1997). School systems have tremendous demands beyond the scope of classroom teaching. They must manage a population already difficult by nature of adolescence, but further compounded by mental health disorders demanding an Individual Education Plan (IEP). It is important to understand that there is a larger population of disruptive students with disorders that are not eligible for assessment and treatment under the Individuals with Disabilities Education Act (IDEA). The studies show that disruptive students are typically not assessed to determine the underlying reasons for the behavior (Mendez, 2003). This may not be for lack of want, but for lack of resources. School systems already operate with insufficient resources to assist those required by law for services, so how can we expect them to assess a larger population as to which they have no legal obligation?

It also begs another question: Do we really want school systems to be the sole proprietor of all services provided to students given the varying types of social, emotional and psychological needs students bring to school? Should the school system be a “Jack of all Trades?” Within a systems perspective, school systems are not designed to address these needs. On the contrary, most localities have established separate agencies, private and public, to assess and treat these needs including social services, mental health and private providers. With the advent of campus police programs, juvenile courts and juvenile

justice agencies are now drawn into this problem. These questions present an analytical framework problem when we focus only on the organization and not the problem. What should an organization do if the services needed are the primary outcome of other organizations?

The answer to this question brings us to a discussion of collaborative theory and the connecting of organizations to enhance desired outcomes of each participating organization. Applying a systems model to collaborative phenomena requires a shift from the organization to the problem domain (Wood & Gray, 1991). When this shift occurs, the nature of the questions also changes. A problem domain-focused as opposed to an organization-focused analysis drives the evaluator to understanding that each system sometimes works within a larger system with shared boundaries. Instead of asking how do we address disruptive students, which will lead to punitive measures given the shortfall of resources, the question becomes who else shares our problem and has resources to help us? We call this the Multi-Integrated Systems Model as shown in Appendix Figure 2. This model and integrates each system's outputs toward a single desired outcome.

A review of the literature reveals several definitions of collaboration, but we have chosen the following we believe encompasses all attributes of collective action:

Collaboration occurs when a group of autonomous stakeholders of a problem domain engage in an interactive process, using shared rules, norms, and structures, to act or decide on issues related to that domain (Wood & Gray, 1991).

This definition, however, does not identify how collaboration begins and by whom, which requires a discussion of leadership and other related factors that drive organizations to take collective action to solve a problem.

Generally, organizations that seek collaboration do so when influenced by any one or combination of factors that include consequential incentives, interdependence or uncertainty (Emerson, Nabatchi & Balogh, 2011). It is important to understand that these factors may be used by one organization to influence another to join a collaborative effort. For example, a juvenile court judge who recognizes a 1,248 percent increase in school referrals to the court—of which 92 percent are low level offenses including school fights, disorderly conduct, and disrupting public school, as was the case in Clayton County, Georgia—is burdened with an overwhelming docket. This becomes a consequential incentive to address the negative impact of zero tolerance.

It also becomes an opportunity to show police and the school system the negative impact of low level referrals, including a decline in graduation rates and little to no improvement in reducing drugs and weapons on campus. It is an opportunity to convince the other stakeholders that the problem is interdependent because no organization on its own can increase graduation rates, improve school safety and reduce the court docket. To act alone brings some uncertainty, but acting together reduces fear of the unknown through the “interactive process,” also coined “Principled Engagement” (Emerson, Nabatchi & Balogh, 2011).

There remains one other factor essential to driving collective action-leadership. There is usually an identified leader in a position to initiate the collaborate effort. Leadership typically takes the form of a convening role. A convener’s role is “to identify and bring all the legitimate stakeholders to the table” (Gray, 1989). The convener, in order to be effective, must possess the following characteristics:

- **Convening Power**—the ability to bring stakeholders to the table;
- **Legitimacy**—the stakeholders perceive the convener to have authority, formal or informal, within the problem domain;
- **Vision**—the convener understands the problem domain and related issues to process stakeholder concerns and needs; and
- **Stakeholder Knowledge**—the convener can identify the stakeholders and possesses knowledge of each stakeholder role in the problem domain (Gray, 1989).

Some literature includes neutrality as a convener characteristic, but from our experience in the three jurisdictions discussed below, neutrality is not necessary if the convener’s role is limited to bringing stakeholders together. It is difficult to be unbiased if the convener is also a stakeholder, and to exclude a stakeholder from convening a collaborative may be detrimental to initiating action. We recommend that a stakeholder convener identify a neutral facilitator to engage the stakeholders during the “interactive process.”

Within the problem domain of zero tolerance, we recommend the Judicial Leadership Model (JLM) to bring stakeholders together. The juvenile court is the one place where all agencies serving children and youth intersect. The juvenile court is the common denominator of all child service agencies (Teske, 2011). With the juvenile court situated at the crossroads of juvenile justice, the juvenile judge is placed in a unique role. (Teske & Huff, 2010). Juvenile judges are “incomparable agents for change within the juvenile justice system, and with the respect and authority accorded the bench, are

in a unique position to bring together system stakeholders” (Teske & Huff, 2010). Juvenile court judges possess all of the characteristics of an effective convener. Their authority on the bench translates into informal authority off the bench (Wood & Gray, 1991). Former National Council of Juvenile and Family Court Judges president Judge Leonard P. Edwards said it best: “This may be the most untraditional role for the juvenile court judge, but it may be the most important.”

The stakeholder must identify the stakeholders of the problem domain, but only after defining the problem. The problem informs us who must be at the table. When Clayton County began its stakeholder meetings, it began with a single objective to reduce school arrests. After the “interactive process,” it became evident that the problem was bigger than school arrests, which led to understanding that the solution was multi-faceted. A convener must understand that the stakeholder’s self interests and the problem domain’s collective interests are not always clear and distinct (Wood & Gray, 1991). Stakeholders come to the table with their own interests and these interests may or may not be shared, differing, or opposing (Wood & Gray, 1991). The facilitator must engage the stakeholders in a fair and open discourse that identifies all the interests. This “interactive process” may present new questions, issues and interests that in turn may lead to identifying other stakeholders who should be at the table.

THE COLLABORATIVE APPROACH

In 2003, the juvenile court judge in Clayton County, acting as convener, invited the School Superintendent and Chief of Police to meet and discuss the overwhelming increase of school referrals to the juvenile court and how this may be handled in other ways. Our meetings generated more questions as a result of each stakeholder’s self interest. What are school administrators to do with these disruptive students who no longer referred to the court? When should police intervene in school disruption matters? How do we identify the underlying problems causing the disruption? What do we do to address those problems given the limited capacity and resources of the schools? How do we ensure the safety of the schools? The collaborative process generated new and difficult questions that extended the time to develop a system to meet the goal. It also required more stakeholders at the table, including mental health, social services, private providers, parents, youth and the NAACP. The judge appointed a neutral person to facilitate the meetings. The judge participated in the discussions but limited his role to convener.

The judge convened the meetings twice a month. The facilitator assigned tasks to stakeholders between each meeting. The “interactive process” took nine months. The stakeholders agreed that two written agreements or Memoranda of Understanding (MOU) were necessary to address the interests of all stakeholders: 1) reduce suspensions, expulsions and arrests and 2) develop alternatives to suspension and arrests including assessment and treatment measures for chronically disruptive students. The first MOU, titled “School Referral Reduction Protocol,” identified misdemeanor offenses no longer eligible for referral to the juvenile court unless the student has exhausted a two tier process that includes: warning on the first offense to student and parent; referral to a conflict skills workshop on the second offense; and referral to the court on the third offense. The second MOU created a multidisciplinary panel to serve as a single point of entry for all child service agencies, including schools, when referring children, youth and families at risk for petition to the court.

The panel, called the Clayton County Collaborative Child Study Team (Quad C-ST), meets regularly to assess the needs of students at risk for court referral and recommends an integrated services action plan to address their disruptive behavior. The panel consists of a mental health professional, the student’s school social worker and counselor, a social services professional, juvenile court officer and approved child service providers, and is moderated by a trained facilitator provided by the court. The panel links the child and family to services in the community not available to the school system. The panel developed an array of evidence-based treatment programs such as Functional Family Therapy, Multisystemic Therapy, cognitive behavioral programming and wrap-around services.

OUTCOMES

When police were placed on middle and high school campuses in the mid-1990s, the number of referrals to the juvenile court by 2004 increased approximately 1,248 percent. Approximately 92 percent of the referrals were misdemeanor offenses involving school fights, disorderly conduct and disrupting public school--infractions traditionally handled in school using school code of conduct responses. In addition to school arrests, the rate of OSS increased and by 2003 graduation rates decreased to 58 percent (Clayton County Public School System, 2010).

Altogether, one-third of all delinquent referrals to the court were from the school system, and most were minor offenses (Clayton County Juvenile Court, 2010). These referrals contributed to a large increase in probation caseloads, averaging approximately 150 probationers involving minor offenses and kids not considered a high risk to re-offend or a public safety risk. These were kids who may make you mad, but in a juvenile justice context, did not scare you. The increased number of probationers, of which most were low risk to commit a delinquent act in the community, reduced the level of supervision and surveillance of the serious offenders. Resources were wasted on the youth who made us mad instead of concentrated on the youth who scared us. This resulted in high recidivist rates that compromised community safety.

By 2003, with referrals, probation caseloads, and recidivist rates increasing, and graduation rates decreasing, the system was under stress. It was time to evaluate how the system should respond to disruptive students in light of the research indicating that punishment alone, whether by suspension, expulsion or arrest, exacerbates the problem for the students, schools and the community. These findings demonstrate the importance of a dualistic approach in integrating community systems to reduce reliance on punitive measures while at the same time provide additional resources for school systems to assess and treat disruptive students.

Following the School Referral Reduction Protocol, referrals to the court were reduced by 67.4 percent. The school police had spent most of their time arresting students for low-level offenses. The implementation of the protocol produced a residual effect in the felony referral rate with a decrease of 30.8 percent. According to school police, the warning system was used for some felony offenses involving typical adolescent behavior. The decision by school police over time to extend their discretion to use the warning for certain offenses outside the scope of the protocol indicates a shift in cognition. When prohibited from making arrests, school police began to engage students and developed an understanding that discipline should be applied on a case-by-case basis. This resulted in even greater reductions in referrals.

After the protocol was implemented, the number of students detained on school offenses was reduced by 86 percent. The number of youth of color referred to the court on school offenses was reduced by 43 percent.

Another byproduct of the protocol was a 73 percent reduction in serious weapons on campus. These involve weapons outside the discretion of police and must be referred to the court by law. These results appear to refute the belief among school administrators that zero tolerance promotes school safety.

A survey of school police shows that the cessation of school arrests increased police presence on campus because they were no longer leaving campus to transport and file referrals. This in turn increased their knowledge of the student body. Their increased presence promoted friendly engagement of students. This positive engagement coupled with the student's perception that the police were there to help (because arrests drastically declined) produced sharing of information by students to police about concerns on campus. Consequently, students share information that leads to solving crimes in the community as well as crimes about to occur on campus. "Schools are a microcosm of the community" as stated by the supervisor of the school police unit (Richards, 2009). If one wants to know what is going on in the community, talk to the students. However, the students must want to talk to you. Therefore, the aim of school policing is to gather intelligence of student activity through positive student engagement.

The response by police to the change in the handling of disruptive students exemplifies human adaptation to systemic adjustments. Although the primary objective was the adjustment of system routines to reduce referrals in order to reduce court dockets, probation caseloads, and increase graduation rates, no one predicted such a considerable improvement in school safety. One study found that people within a system, whether they are police or school administrators, will modify their routines and practices to suit the new situation (Berkhout, Hertin & Gann, 2006). Confronted with greater time on campus and placed in a less confrontational role with students, police altered their law enforcement approach to gather information that can be used to prevent crimes on campus and in the community.

At the same time, the School Referral Reduction Protocol went into effect; the Quad C-ST began work to develop alternatives to OSS and connect the school system with other community providers. These alternatives resulted in an 8 percent decrease in middle school OSS (Clayton County Public School System, 2010).

After implementing these integrated systems, the school system observed an increase in graduation rates, resulting in a 24 percent increase by the end of the 2010 school year surpassing the statewide average. By 2004, the juvenile felony rate in Clayton County reached an all-time high, but declined 51 percent after creating the integrated systems.

Some of these results have been replicated in other jurisdictions including Birmingham, Alabama and Wichita, Kansas. The family court judge in Birmingham was the first to replicate this collaborate approach. During the 2007-08 school year, school police in Birmingham referred 513 students to court of which 99 percent were African American and 96 percent were for

petty misdemeanor offenses. The judge also brought stakeholders together and developed a written protocol similar to that of Clayton County. The referrals declined by 75 percent and detention rates fell by 72 percent between 2004 and 2011. Recently, the juvenile judge in Wichita convened stakeholders meetings and established a protocol resulting in a 50 percent decrease in school arrests.

CONCLUSION

The results from the collaborative efforts of three jurisdictions support the research that overuse of OSS and school arrests decrease graduation rates and is counter-productive in promoting school and community safety. The results in Clayton County reveal that a collaborative effort to assess and treat chronically disruptive students provides school systems with the additional resources needed to effectively address the behaviors. This approach relieves school systems from relying on the traditional punitive approach while simultaneously reducing court dockets and probation caseloads to improve the supervision of youth who scare the community. It also reveals a better method of policing that is grounded in improving human relations between police and students. The replication of outcomes in three different jurisdictions in different states shows the effectiveness of the collaborative approach using the Judicial Leadership Model.

Finally, the Multi-Integrated System Model is key to improving the education and safety of students because of the causal relationship between OSS, school arrests and graduation rates. Arguably, as more students graduate, fewer students drop-out and commit crimes. Unless stakeholders in the problem domain of zero tolerance collaborate to combine their knowledge and resources, suspensions and arrests will continue to push out students from a protective system into a delinquent system that is intended the fewer youth who seriously scare us.

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CONNECTICUT’S COMPREHENSIVE APPROACH TO REDUCING IN-SCHOOL ARRESTS: CHANGES IN STATEWIDE POLICY, SYSTEMS COORDINATION AND SCHOOL PRACTICES

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Despite decreases in school violence over the past two decades, in-school arrest rates are on the rise. This growing trend of school arrests is attributed in part to an increase in “zero tolerance” policies for disruptive behavior and exclusionary discipline practices such as suspensions, expulsions and the involvement of law enforcement in school discipline matters. This paper describes recent advancements made toward reducing the rates of in-school arrests in the state of Connecticut through juvenile justice policy reform, advocacy and systems coordination efforts, and changes to school practice and policy from an interdisciplinary collaborative approach.

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School violence is at its lowest level since 1992, yet in-school arrests are an increasingly common phenomenon (Robers, Zhang, & Truman, 2010). Many believe that the rise in in-school arrests is not due to worsening student behavior, but rather, changes in adult responses to behavior. Examples include so called “zero tolerance” disciplinary policies that are highly punitive and often rely on forms of discipline that exclude students from the normal academic experience through arrest or expulsion. These forms of punishment can have catastrophically negative consequences on the academic and socio-emotional development of students (Costenbader & Markson, 1998; Rausch & Skiba, 2004). Furthermore, juvenile arrests in general, and in-school arrests more specifically, disproportionately occur among students with behavioral health needs and students from minority racial and ethnic backgrounds (Desai, Falzer, Chapman, & Borum, 2012).

A COMPREHENSIVE THREE-PRONGED APPROACH

There are no simple solutions to the problem of in-school arrests. What is needed is a comprehensive approach to changing business as usual through reforms to juvenile justice policy, advocacy and systems coordination efforts, and changes to school practice and policy. In this paper, we describe Connecticut’s accomplishments in these areas and how these collective efforts have begun to reduce the number of in-school arrests in the state.

PUSHING BACK: REVISING CONNECTICUT’S JUVENILE COURT INTAKE POLICY TO REDUCE SCHOOL ARRESTS AND THE FLOW OF CHILDREN INTO THE JUVENILE JUSTICE SYSTEM

Supervisors within Juvenile Probation, a department within the Court Support Services Division of the Connecticut Judicial Branch, are the gatekeepers to Connecticut’s juvenile justice system. All summonses or referrals issued by the police are received by the Juvenile Court Clerk’s office, entered into a case management system, assigned a docket number and then sent to the Juvenile Probation Supervisor for a handling decision. To begin to address the problem of in-school arrests within the policy arena, Juvenile Probation proposed the implementation of a new intake process that would prevent non-serious in-school arrests from entering the juvenile justice system. This involved changes to the language and interpretation of Connecticut’s Practices Book and Connecticut General Statutes that would provide Juvenile

Probation Supervisors the discretion to return inappropriate court referrals to the schools for an alternative response.

The proposed policy change in Juvenile Probation used Connecticut General Statute, § 46b-128 **Investigation of delinquency complaint** in a new manner. The statute states, in part, that:

(a) Whenever the Superior Court is in receipt of any written complaint filed by any person, any public or private agency or any federal, state, city or town department maintaining that a child's conduct constitutes delinquency within the meaning of section 46b-120, it shall make a preliminary investigation to determine whether the facts, if true, would be sufficient to be a juvenile matter and whether the interests of the public or the child require that further action be taken.

By bringing attention to this statute, creating a supervisory guide and modifying existing policy, Juvenile Probation began pushing juveniles out of the formal system and sending the message that the Juvenile Court should not be the default disciplinary entity for schools. Juvenile Probation Supervisors now review a summons to determine if any of the following criteria are present, and if they are, to make a determination as to whether further Court action should be taken:

- A. Child is age 8 or less;
- B. The summons indicates behaviors that are in keeping with normal adolescent behavior;
- C. The summons is for an infraction involving skateboarding, bicycles, loitering or simple trespass involving school property;
- D. The summons is for possession of tobacco products if the child is over 15 years of age;
- E. The summons is for siblings fighting in the home, when no weapons were used and no injuries sustained;
- F. The summons is for fights in school, which involve two juveniles of similar age, no injuries were reported and both juveniles were arrested;
- G. The summons is for school incidents that are in keeping with normal adolescent behavior, given that adolescents lack good decision making and typically do not analyze the consequences for their behaviors such as: wearing a hat in school; talking back to staff; running in the halls; swearing; acting in a disruptive manner but no violence took place, no destruction of property occurred and no injuries were sustained.

Several steps were taken in order to institute the new policy. Judicial Legal Services was consulted to ensure that the proposed change was in keeping with the language and spirit of the statute. Second, a number of individuals were consulted to ensure the appropriateness of the proposed changes, including the Chief Court Administrator, the Chief Administrative Juvenile Court Judge, the Chief State's Attorney and the Supervising Juvenile Prosecutor. A data tracking system was developed to collect information on the reason for the return and whether the juvenile prosecutor was in agreement as well as to ensure a criminal record was not developed. Juvenile Probation Supervisors were notified of the changes and were tasked with notifying all police chiefs and school superintendents of the new process and the criteria for returning court referrals. Finally, the new intake policy was shared with Connecticut's child welfare agency and various other stakeholders.

In addition to the new intake policy outlined above, Juvenile Probation is beginning to pilot a second diversionary process, which allows Supervisors to divert minor summonses/referrals to local Youth Service Bureaus (YSBs) and Juvenile Review Boards (JRBs) across the state. A YSB is an agency operated directly by one or more municipalities or a private agency under municipal contract designated as an agent of one or more municipalities, which serves as the lead local agency in community planning, coordination, and evaluation of prevention and treatment services for at-risk youth. YSBs also serve as the cornerstone of the Juvenile Review Board (JRB) model, which is a partnership between law enforcement, schools, Connecticut's Department of Children and Families (DCF) and the juvenile court system to evaluate at-risk behaviors within the context of individuals and families and divert from court involvement. A referral to a YSB or JRB assures the Probation Supervisor that the child is accountable for the behavior and receives necessary services. To address concerns about confidentiality, the Chief Administrative Judge for the Juvenile Court, via the Judicial Branch, has indicated a willingness to introduce legislation to the Connecticut General Assembly in its upcoming session to allow Juvenile Probation Supervisors the ability to directly refer inappropriate court referrals to a YSB or JRB.

As a result of these policy changes and other changes described in this paper, the court is seeing a decline in the number of school arrests that are being referred to court. Several schools are developing policies and procedures to address school behaviors within the schools, encouraging police officers to use their discretion when determining whether to issue a summons and encouraging everyone involved to utilize community resources.

SYSTEMS COORDINATION: THE CONNECTICUT JUVENILE JUSTICE ALLIANCE

Statewide advocacy and systems coordination is a critical element for creating and sustaining comprehensive juvenile justice reforms. The Connecticut Juvenile Justice Alliance (CTJJA) has played an important role in building statewide support for juvenile justice reform and working at the local level to support communities and schools that are interested in addressing the maladaptive ways that adults can respond to student behaviors. CTJJA was established in November 2001 as a statewide collaboration of stakeholders interested in juvenile justice system reforms. The mission of CTJJA is to reduce the number of children and adolescents entering the juvenile and criminal justice system, and to advocate a safe, effective and fair system for those involved.

CTJJA works closely with Connecticut's Juvenile Justice Advisory Committee (JJAC), a group appointed by the Governor to prevent delinquency and improve the state's juvenile justice system through oversight of federal juvenile justice funding. Together, CTJJA and the JJAC disseminated information regarding the successful work of juvenile court judges Steven Teske and Brian Huff, respectively of Clayton County, Georgia and Jefferson County, Alabama (Teske & Huff, 2010). Judges Teske and Huff significantly reduced in-school arrests in their jurisdictions by convening the courts, schools, police departments and community providers to develop protocols that offer alternatives to arrest for common adolescent behaviors. The result was a 76 percent reduction in juvenile court referrals (Teske, personal communication, September 17, 2010).

Advocates for this work included Valerie LaMotte from the JJAC and Judge Christine Keller, Chief Judge for Juvenile Matters in Connecticut. With their support, CTJJA hosted a statewide event in October 2010 in which the judges presented to Connecticut police officers, school administrators and Youth Service Bureau staff and personnel from the Judicial Branch and Department of Children and Families. Their presentation was followed by breakouts for discussion and planning among the municipalities in attendance.

Three communities emerged from this process as pilot sites for additional reform efforts by virtue of demonstrating buy-in from key stakeholders including their school district superintendent, the police chief and a juvenile court judge. In June 2010, these three community groups met for a full day of coaching and planning with CTJJA, Judges Teske and Huff and their technical assistance team, state Judicial Branch leaders and members of the JJAC, consistent with the collaborative model developed by the Juvenile

Detention Alternatives Initiative (JDAI) as funded by the Annie E. Casey Foundation.

At the beginning of the 2011-2012 school year, CTJJA continued to work with the three pilot communities to establish memoranda of agreement (MOA) between school administrators and police. The model MOA, initially developed by the JJAC, states that, “the vast majority of student misconduct can be best addressed through classroom and in-school strategies and maintaining a positive climate within schools rather than by involvement of the justice community.” The MOA emphasizes graduated responses to misbehavior within schools, with arrest used only as a last resort. For example, teachers are encouraged to address low level behaviors such as tardiness or horseplay in the classroom through methods such as redirection, moving a child’s seat, or classroom detention. More frequent or serious behaviors such as harassment or fighting may be handled by administrators through loss of privileges, extended detention, or suspension. Community service interventions (e.g., Juvenile Review Board, Department of Children and Families) are initiated for repetitive or severe behaviors when warranted and law enforcement should be involved only after classroom, school and community-level interventions have been exhausted. The JJAC also offered grants for programs designed to reduce in-school arrests within communities that implemented the protocol. The positive word of mouth generated by this work led seven additional school districts to adopt the MOAs and protocol changes, even though they did not formally participate with CTJJA in the initiative.

Anecdotal evidence from the pilot towns is both compelling and instructive. For example, in one community there were three incidents in which students were caught with a small amount of marijuana. No arrests were made; instead, in each case, the students received substance abuse counseling and in-school discipline and parents were involved in the process. One incident even occurred off of school grounds; nevertheless, the responding officer contacted school administrators to discuss the incident rather than making an arrest. What is equally compelling is that participating districts have conducted this intensive work with little or no budget from their districts or from external grant funding. Instead, schools, police and communities have come together around this important issue, reinforcing the notion that in-school arrests can be reduced when adults commit to doing things differently.

In addition to these efforts within the pilot communities, CTJJA also took on the important role of raising public awareness regarding in-school arrests. CTJJA partnered with Connecticut Public Television (CPTV) to promote discussion of the CPTV documentary *Education vs. Incarceration: The*

Real Cost of Failing Our Kids (2011), and in addition, developed a detailed discussion guide and toolkits for smaller groups that wished to hold their own forum for screening the documentary. CTJJA has also pitched stories on the topic to the press and provided extensive background to reporters. In 2012, CTJJA will release a major white paper documenting the success of arrest reduction efforts in Connecticut schools. Finally, CTJJA has worked with the Judicial Branch's Court Support Services Division (CSSD) to modify and expand CSSD's data collection procedures to more effectively identify and track in-school juvenile arrests, a system that will be rolled out during the 2011-2012 school year.

There have been a number of successes related to this initiative. CTJJA has helped communities bring together various stakeholders around the issue of in-school arrests. Schools and police are now better acquainted with community resources that address issues like substance abuse and mental health needs, as well as diversionary restorative options like a Juvenile Review Board. CTJJA has also helped raise public awareness for the issue and build consensus that intervention is necessary. The work of the CTJJA in Connecticut is a testament to the important role of advocacy and effective systems coordination among schools, police, communities, state agencies and other stakeholders. With this element in place, reform efforts can more effectively take root in states and communities that have the desire to reduce in-school arrests.

A PROMISING PRACTICE IN SCHOOLS: THE CONNECTICUT SCHOOL BASED DIVERSION INITIATIVE

Policy changes and systems coordination are necessary elements of juvenile justice reform, but how can states and communities ensure that these changes reach the school systems with the highest arrest rates? The Connecticut School-Based Diversion Initiative (SBDI) is designed to reduce discretionary in-school arrests and expulsions, and to link youth with behavioral health needs to appropriate community-based services and supports. SBDI achieves this by engaging directly with school administration, staff and school resource officers as well as key community-based resources. SBDI was originally funded by a grant from the John D. and Catherine T. MacArthur Foundation Models for Change Mental Health/Juvenile Justice Action Network and is now jointly overseen by the Court Support Services Division of the Judicial Branch (CSSD) and the Connecticut Department of Children and Families (DCF). The Connecticut Center for Effective Practice of the Child Health and Development Institute piloted SBDI in four school districts during the 2009-2011 school

years and in 2011-2012 began implementing the model in nine schools/ educational programs within three additional school districts.

The work of SBDI is informed by the perspective that many youth who are arrested have unmet mental health needs. In fact, approximately 65-70 percent of youth in juvenile detention have a diagnosable behavioral health condition (Council of State Governments Justice Center, 2011; Shufelt & Coccozza, 2006; Teplin, Abram, McClelland, Dulcan, & Mericle, 2002). These youth may be better served through the mental health system, rather than the juvenile justice system. In addition, students who are arrested or expelled are disproportionately likely to be students of color, particularly African-American and Hispanic males. Even when the behaviors are the same, too often school responses to behaviors are more severe for students of color (Richetelli, Hartstone, & Murphy, 2009). SBDI aligns closely with broader systems goals in Connecticut to reduce use of the most restrictive forms of care including incarceration, inpatient hospitalization and residential treatment.

Students who are not arrested for school incidents are still in need of services, supports and alternative disciplinary action, and SBDI works with schools to ensure students receive what is needed. Unfortunately, schools often need better linkages to community-based resources, particularly crisis response and mental health services, which can be effective alternatives to law enforcement involvement (Petteruti, 2011). This is likely to be a particular need within schools that have high enrollment and insufficient internal capacity to meet students' needs given a shortage of guidance counselors, school social workers and school psychologists.

To accomplish the overarching goals of juvenile justice diversion and arrest reduction, SBDI engages in a number of activities including training and professional development for key school professionals, coordination and collaboration with existing community-based services and supports, school disciplinary policy consultation and data collection. In the area of training, SBDI offers a series of professional development opportunities to school personnel including administrators, teachers, school social workers and psychologists, and school resource officers. Examples of training topics include: understanding normal adolescent development; recognizing mental health symptoms; accessing community-based behavioral health resources; and understanding the juvenile justice system. In addition to these "core" trainings, SBDI works with each school to customize the professional development series by identifying particular areas of interest that are closely related to the issue of in-school arrest diversion.

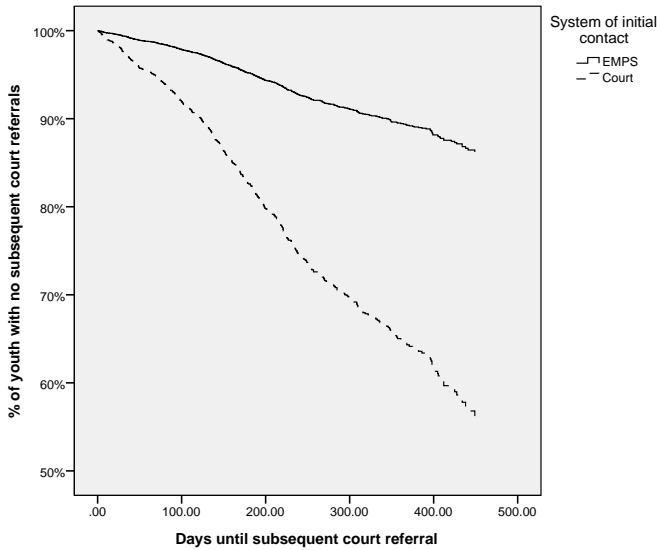
In the area of school disciplinary policy, SBDI facilitates development of a Graduated Response framework that was originally developed by the JJAC.

The model introduces schools to this progressive disciplinary approach in which arrest is considered a last resort to be used only after other in-school alternatives have been exhausted. This model is one way in which SBDI seeks to change the culture of a school from being punitive and relying excessively on law enforcement and juvenile courts, to being supportive and community-based while maintaining appropriate discipline for misbehavior.

Youth experiencing an acute behavioral health crisis in school can be particularly vulnerable to unnecessary police intervention and arrest. They require behavioral health services and supports that are not readily available within schools when an acute need is present. To address this, SBDI facilitates a stronger connection between schools and their local Emergency Mobile Psychiatric Services Crisis Intervention team (EMPS). EMPS is a statewide mobile crisis response program that responds quickly to schools to support students experiencing behavioral health problems. EMPS is available to every school and community in the state and offers crisis stabilization, assessment, brief treatment and appropriate linkages to ongoing care. As a mobile service, EMPS clinicians respond directly to schools and they arrive quickly, often in less than 30 minutes. Schools have historically underutilized this resource due to a lack of awareness, and in some cases, a history of poor collaboration with the broader mental health provider community. SBDI seeks to strengthen relationships between schools and EMPS. In addition, SBDI engages with the Local Interagency Services Teams (LIST) as an existing community resource for promoting system reform. The LISTs are 13 interagency collaboratives across Connecticut comprised of state and local agencies and community members and designed to coordinate planning and implementation of statewide juvenile justice efforts at the local level.

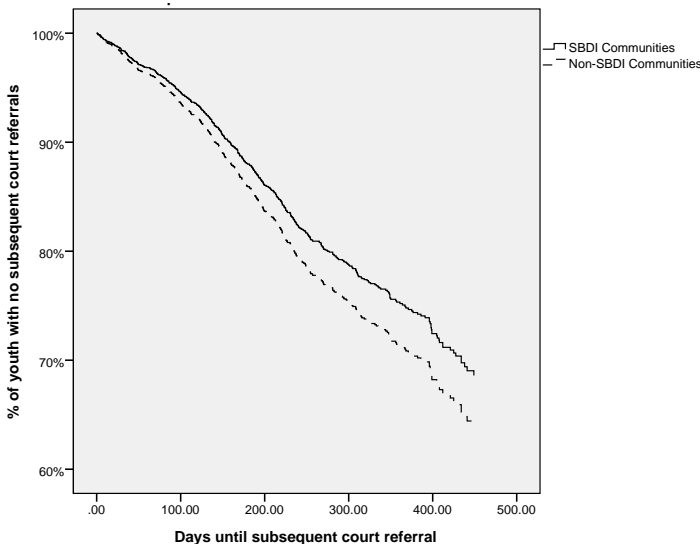
Data collection, analysis and reporting are used to assess the effectiveness of the SBDI. Results of school and student-level data collected from participating SBDI schools in 2010-2011 indicate that in-school arrests dropped 50-59 percent per school, in-school suspensions decreased by 9 percent and out-of-school suspensions decreased by 8 percent. In addition, EMPS Crisis Intervention utilization tripled, while ambulance calls decreased by up to 22 percent. A 2011 evaluation by Yale University used survival analyses to compare data on initial and subsequent court referrals between similar communities with and without SBDI during the pilot year of the program in 2009-2010 (O'Connell, 2011). The results indicated that youth first served by EMPS had fewer subsequent referrals to court (47%) compared to those initially referred to court (66%; see Figure 1).

FIGURE 1. Fewer Subsequent Court Referrals for EMPS-Referred Youth
Youth referrals to EMPS of court from 9/1/2009 to 8/31/2010



Further, rates of subsequent juvenile justice referrals were significantly lower in SBDI communities (31%) compared to non-SBDI communities (43%), even after controlling for the effects of race, age, gender and previous delinquency (see Figure 2). The results support the SBDI model as a creative strategy and promising approach to school-based arrest diversion. Consequently, the state is seeking strategies to expand SBDI more widely across Connecticut as a way to further reduce in-school arrests.

FIGURE 2. Less Risk of Juvenile Justice Involvement in SBDI Communities
Time for subsequent court referral in SBDI and non-SBDI communities



CONCLUSIONS

We believe the three-pronged approach described in this paper represents best practice for reducing in-school arrest. States and communities interested in achieving similar goals are encouraged to consider a comprehensive approach that includes policy changes, advocacy and systems coordination, and school-based supports that ensure youth are connected with services and supports as an alternative to arrest.

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SCHOOL-BASED YOUTH COURTS: CREATING A RESTORATIVE JUSTICE ALTERNATIVE TO TRADITIONAL SCHOOL DISCIPLINARY RESPONSES

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Across the country, there is a growing recognition that zero tolerance approaches to school discipline are ineffective and detrimental to students and schools, and an interest in finding alternative approaches. School-based youth courts represent a promising alternative, particularly when they are designed in accordance with restorative justice principles. Youth courts are tribunals of young people who have been trained to hear actual cases of offenses committed by their peers and to assign sanctions that help respondents repair any harm they have committed and make better decisions in the future. While there is little robust research on school-based youth courts, research on youth courts generally and the use of restorative practices in school settings suggest that school-based youth courts can help students take responsibility for their own behavior and for the school community in a way that promotes a safe and supportive learning environment. In New York City, the Center for Court Innovation has developed a project to help high schools design and implement youth court programs, which it will evaluate to test their impact on school safety and culture. Early experience with the project suggests that while implementing a youth court in a big city high school presents considerable challenges, those challenges may be overcome through commitment and creativity by school staff.

Across the country, there is a growing recognition that the pervasive use of exclusionary school disciplinary practices and the implementation of “zero tolerance” responses to misbehavior in school not only are ineffective at improving school climate and safety but also carry long-term detrimental effects on students and schools alike.¹ As school districts look

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for alternatives, one potentially powerful tool is the school-based youth court run on restorative justice principles. Youth courts, also called peer courts, are tribunals of young people who have been trained to hear actual cases of offenses committed by their peers. While youth courts can take various forms, in the restorative justice model the courts provide a youth-led, non-adversarial process to help young people understand the harm their actions have caused to others and to their community, take steps to repair that harm, and learn to make better decisions in the future. In contrast to suspension, detention or other punishments, youth courts reinforce membership in the community. In addition, youth courts train members in valuable, transferrable skills, such as public speaking, active listening, critical thinking and collaborative decision-making, and instill a habit of civic engagement.

This article will discuss the role of youth courts in a school setting and their potential for helping schools achieve a safer and stronger learning environment. Although the number of school-based youth courts has, by many accounts, been growing, there is little robust research on how they are functioning or on their impact. We will review the lessons learned to date from a new project by the Center for Court Innovation to develop and evaluate school-based courts in New York City, including some of the challenges schools have faced and implementation strategies they have developed.

YOUTH COURTS: AN OVERVIEW

Although community-based youth courts have existed in some form since the 1930s, most youth court programs are relatively young.² In 1994, the National Highway Traffic Safety Administration (NHTSA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the Substance Abuse and Mental Health Service Administration (SAMHSA) funded a youth court initiative, including a national survey of youth courts and the publication of a resource guide.³ This funding also supported 13 regional training seminars and provided technical assistance to more than nine agencies developing youth courts (Nessel, 2000). In 1998, OJJDP funded a grant program to support youth court evaluation and training and subsequently, facilitated a national training and technical assistance program with the Departments of Transportation, Education, and Health and Human Services (Nessel, 2000). As a result of these investments, the number of youth courts nationwide increased from 50 programs in 1991 to 400 to 500 programs in 1998 (Butts, Hoffman & Buck, 1999, as cited in Nessel, 2000). There are currently an estimated 1,100 youth courts in operation across the country

according to 2010 data in the national registry of programs maintained by the National Association of Youth Courts.⁴ About 36 percent of the youth courts in that national registry were school-based.⁵

Youth courts vary in form and structure, but share some common components.⁶ They generally hear cases of lower-level offenses, such as vandalism, petty larceny, assault, truancy and marijuana possession. Most do not determine guilt or innocence and require that respondents accept responsibility for the actions underlying the offense as a condition of participation. Youth courts instead focus on determining an appropriate sanction, based on what transpires at the hearing. Sanctions may include community service, letters of apology or other written reflections, educational workshops, participation in the peer jury, mediation, tutoring, counseling, or similar interventions. Youth court members or volunteers, the young people who serve on the court, play a central role in the hearing process and determination of sanctions. Before serving on the court, they complete a training program designed both to teach them the various roles in the court and to develop skills that will serve them more generally; the curriculum may include lessons on law, government, and the judicial process. The training makes possible the experiential learning of the court process itself, which builds competency and leadership in a real world setting.

In the community, youth courts provide an early diversion opportunity in response to low-level offenses; a variety of justice system agencies refer cases to youth courts with the goal of preventing further involvement in the juvenile or criminal justice systems. Similarly, in the school setting, youth courts are an integral part of the school's disciplinary process, serving as an alternative to traditional disciplinary measures such as suspension and detention. Youth courts in schools can be operated as part of a school's curriculum, as an extracurricular activity or as a hybrid of the two approaches. Both by providing an alternative response and by addressing lower-level offenses before they escalate to more dangerous behaviors, youth courts can help schools reduce their overall use of exclusionary disciplinary practices and also engage students in directly addressing the safety concerns of the school community.

All youth courts are generally designed to provide positive peer interaction and to help respondents take responsibility for their actions. Some youth courts also incorporate restorative justice principles throughout some or all of their practices. Restorative justice is a response to crime and unlawful behavior that seeks to repair and strengthen relationships that are damaged by crime, ideally through processes that include all those involved in and affected by the crime, including offender, victim, and community stakeholders. Restorative justice programs enable offenders to understand the harm caused

by their behaviors by increasing the voices of those affected by the behaviors, including the broader community. Such programs also create meaningful opportunities for the offender to be accountable for their actions and make amends to their victims and communities. The hypothesis is that people “are happier, more cooperative and productive, and more likely to make positive changes in their behavior when those in positions of authority do things *with* them, not *to* them or *for* them” (Porter, 2007).

In a school setting, a restorative practices approach emphasizes inclusiveness, relationship-building and problem-solving as productive strategies to build healthy school communities and address disciplinary issues when they arise (Porter, 2007). The restorative practices approach “provides high levels of both control and support to encourage appropriate behavior, and places responsibility on students themselves, using a collaborative response to wrongdoing” (Porter, 2007). Schools implementing this approach have teachers use core strategies like conferencing circles to resolve conflict and engage students in managing their environment. There is variation in the extent to which schools implement the restorative approach, from those that regularly use some practices that are restorative in nature to those integrating the model into every aspect of their work with students.

Youth courts provide another structured tool to support restorative practice goals and have the potential to work in a variety of settings. Youth courts can vary in the degree to which they incorporate elements of restorative justice practices. Some youth courts, for example, retain most elements of traditional courts, including adversarial prosecution and defense roles that closely mimic those in criminal or family court; punitive sanctions such as fines, curfews, driver’s license suspension and community service without a positive youth development component; and a hierarchical structure in which adults are the central authority in the hearing process. Youth courts organized more completely along restorative justice principles emphasize helping respondents understand their actions in terms of the harm they have caused to the community, not just as a violation of a law or rule, and by providing them with opportunities to repair the harm. Adults in the restorative justice model serve primarily as facilitators allowing the youth volunteers to lead the process. “Advocates,” not prosecutors and defenders, speak on behalf of the involved parties, and sanction options provide opportunities for respondents to be accountable for their actions through community service or apologies and build on respondents’ strengths and increase their competencies.

RESEARCH ON YOUTH COURTS AND RESTORATIVE PRACTICES

Despite the growing role of youth courts as a diversion option for justice and school disciplinary systems, research on the impact of youth courts is unfortunately limited, particularly where school-based programs are concerned. The United States Department of Juvenile Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) has funded three national studies: (1) "The Impact of Teen Court on Young Offenders" (Butts, Buck, & Coggeshall, 2002) (The ETC Project); (2) "Youth Court: A Community Solution for Embracing at Risk Youth" (Pearson & Jurich, 2005) (AYPF study); and (3) "Youth Courts: An Empirical Update and Analysis of Future Organizational and Research Needs" (Schneider, 2008) (HFI study). Most other research has focused on individual youth court programs and a handful of studies have attempted to assess statewide programming.

Both national and statewide evaluations have found that the majority of youth court respondents successfully complete imposed sanctions. The AYPF study found that 89percent (34,083) completion rate for respondents with no significant variation in rates of completion among youth court models. Furthermore, programs in existence for as little as two years were able to achieve almost perfect success rates (Pearson & Jurich, 2005). The HFI national study found that approximately 97,600 youth from over 1,255 courts nationwide completed their service within one year of their sentence (Schneider, 2008). The same study found a sanction completion rate of 86.3 percent for all youth whose referrals were accepted and heard by youth courts (Schneider, 2008, p.16). Programs in Kentucky, New York and Maryland achieved similar results (Minor et al., 1999; Acker et al., 2001; Stickle et al., 2008).

There have been studies of recidivism in community-based youth courts,⁷ but there have been no robust studies to date on outcomes related to school-based youth courts, including individual recidivism and school achievement, and aggregate outcomes such as suspension and attendance rates, safety, and school culture.

There is, however, a growing body of research supporting the use of restorative practices in schools that suggests the potential value of youth courts in this context. Two studies of large-scale implementation in the United Kingdom, for example, found that the use of restorative practices improved the school environment, enhanced student learning (Youth Justice Board for England and Wales, 2004, as cited in Ashley & Burke, 2009, p. 8), and improved student relationships (McCluskey et al., 2008, as cited in Ashley & Burke, 2009, p. 8).

Another study of three Pennsylvania schools found a reduction in student infractions and disciplinary actions after restorative practices were implemented (Mirsky, 2003, as cited in Ashley & Burke, 2009, p. 8).

The bulk of research on the effects of restorative practices in schools consists of qualitative case studies. These case studies highlight the impact of particular aspects of restorative justice practices that can be implemented through the use of youth courts. West Philadelphia High School, a large urban high school with persistent safety and discipline problems, saw a 50 percent reduction in the use of suspensions and a significant drop in recidivism within the first year of implementing restorative practices. The principal ascribed much of the responsibility for that positive change to the new authority given to students to respond to problems and their ability to “express remorse, sympathy and respect” (International Institute for Restorative Practices Graduate School, 2009 at 6). Staff at another Pennsylvania school that saw similar improvement, Pottstown High School, highlighted the value of allowing students the opportunity to speak directly to other students about their behavior and tell their own stories, in combination with hearing how their behaviors affected others. The school saw improvement in students’ academics as well as behavior, and the school was removed from academic probation (International Institute for Restorative Practices Graduate School, 2009).

Case studies of schools that have implemented restorative practices also underscore how these practices change school administrators’ and teachers’ view of their role in disciplining students and their understanding of what is effective in changing student behavior. For example, one principal saw his role shift from “assign blame and levy a punishment” to helping students through the building of relationships throughout the entire school community (International Institute for Restorative Practices Graduate School, 2009, at 11). Increasing students’ authority and establishing adults as supporters and participants in a collaborative response to school problems is a fundamental application of restorative principles in a school setting, and corresponds to key aspects of youth courts.

In addition, the literature on procedural justice (Sunshine & Tyler, 2003; Thibaut & Walker, 1975; Tyler, 1988, 2002, 2006), which studies how peoples’ views of fairness of a process (e.g., police arrest, court case, school discipline case) influences their belief in the legitimacy of that social control institution, suggest that students’ views of fairness may be linked to their likelihood of obeying or influencing their peers to obey the school rules. To the extent that youth courts can improve the youths’ views of fairness in school disciplinary policies, then it may help reduce the number of student offenses and instances of disciplinary cases.

BUILDING ON LESSONS LEARNED: THE NEW YORK CITY HIGH SCHOOL YOUTH COURT PROJECT

In 2011, the Center for Court Innovation in New York City began an initiative to test these promising ideas by helping a group of New York City high schools develop and implement school-based youth courts as part of their disciplinary systems. The Center runs seven community-based youth courts in New York City and Newark, New Jersey, and has provided technical assistance to new and established youth courts at the state and national level, including the development of a resource guide for New York State programs, *Recommended Practices for Youth Courts*. Center staff have worked with individual schools in the past to develop youth court programs, but the New York City High School Youth Court Program (NYHSYC) is the first comprehensive effort to test strategies for helping a range of schools in New York City create programs suited to their school communities. Other Cities, such as Syracuse, New York, and Chester, Pennsylvania, have had robust school-based youth court programs for years, but New York City has not previously ventured far in this direction.

In addition to technical assistance for the participating schools,⁸ the NYHSYC includes an evaluation component, which will use school-level data to examine the impact of youth courts on school suspension rates and safety (in comparison to a matched set of schools without youth courts) and will use surveys and interviews with students and teachers to look at the impact on perceptions of safety and fairness in the schools.

The participating schools began planning for their youth court programs in spring 2011. By the beginning of January 2012, there was great variety in the progress each school had made toward its goal of launching a youth court in the 2011-2012 school year. One school had trained a cohort of students and begun hearing cases. Another school had completed training and was preparing to hear its first case. A third school had begun training, while three others were set to begin training later in the semester. All were excited about the prospect of integrating the courts into their school disciplinary systems.

ADDRESSING CHALLENGES

While all of the schools self-selected into the program and were committed to bringing the project to fruition, they have all encountered some hurdles to implementation. These are worth discussing even as they are successfully surmounted, because other schools may face similar issues and can benefit from advanced planning. In general, schools face a number of challenges

to implementing youth court programs. These include conflict with the “fulfillment of state curriculum standards [that] results in a very full schedule during school hours,” logistical issues that arise as a result of limited time, funding limitations, the challenge of preserving confidentiality in a small community, and “the school administration’s ultimate responsibility for discipline,” which may conflict with allowing students to “accept a disciplinary role” (Nessel, 2000, at 5).

There were further challenges to implementing programs built on a restorative justice model. None of the NYCHYC participating schools had adopted school-wide restorative practices initiatives prior to joining the project, although several schools had peer mediation programs. While most of the schools applied to participate in the project at least in part out of a sense of frustration about the discipline situation at their schools, none were taking on the youth court in the context of adopting a broader, systemic change in the school. This meant that the youth court project didn’t necessarily have the full support of the school community at the outset and would need to serve as a learning lab for a restorative approach for these schools. One of the questions for the project will be whether youth courts implemented without the context of a larger initiative can still have an impact on a school’s culture and safety.

In the initial planning phase of the project, the most salient of these challenges were the logistical and resource issues. A number of schools, for example, wanted to integrate their youth courts into existing law-related courses. On first glance, this made a lot of sense: the students in those classes were interested in the law and legal processes, and while youth court doesn’t teach students about the law per se, it gives students the experience of implementing a particular kind of tribunal and teaches them relevant skills like public speaking and precision questioning. Still, many of these courses already had established curricula and couldn’t be taken over completely by the youth court, both for training students and conducting hearings. Also, having the youth court as part of class during the school day would require pulling respondents out of other classes in order to have their cases heard. The program would also suffer from a lack of diversity, attracting only the students interested in the law, and limiting the likelihood that students coming before the court could subsequently join the court as a member. Taking the youth court out of the curricular program, however, requires finding the staff resources to run the court outside of class time, which is a significant responsibility. One of the first hurdles that planning teams from the school had to meet was understanding the level of basic investment required to start and manage a program, including approximately 25 hours of

student training and practice, weekly facilitation of hearing preparation and hearings, and the management of cases from referral through the completion of sanctions by the respondent.

The other challenge that came to the fore in the early months of planning was the need to familiarize both school staff and students with the core principles of restorative justice. As noted above, none of the schools were currently implementing restorative practices and the approach embedded in the youth court model represented a major departure for how schools envisioned discipline. The new approach was also unfamiliar to students, who understood discipline as a function of the school hierarchy and, in general, are heavily influenced by media portrayals of an adversarial legal system, such as the television show “Law and Order.” The shift from a language of punishment to a language of community responsibility and accountability has required a conceptual leap that has needed repeated reinforcement with each new staff member or student introduced to the program.

As the schools moved closer to implementation, the issue of how to bring all stakeholders in the school into the process became more prominent. Each constituency – teachers, deans (who are generally in charge of discipline in the schools), administrators, students, parents - has to be engaged in the project for it to work. All of the schools began with active support and understanding from only a subsection of these constituencies and then had to figure out how to bring the rest along. In a couple of cases, for example, a small group of teachers and deans involved in the project created presentations for other staff at faculty meetings. The Center worked to help schools in the process by bringing groups of school staff, and in some cases, students, to visit the Center’s operating community youth courts.

There are some particular challenges in building a collaborative group of stakeholders specific to the New York City public school system. First, New York City school administrators are not always singularly responsible for disciplinary environments and responses to misbehavior in their schools. School safety agents are employees of the New York City Police Department and are responsible for all school entrances and exits, staffing any metal detectors or security equipment in use, patrolling school property, and intervening in verbal and physical altercations between students. They also have the ability to call in police officers to arrest students who have broken the law while on school property (e.g., possession of a weapon, robbery, assault, and vandalism). School safety agents answer to the NYPD Division of School Safety, not school principals. Second, four of the schools in the project, like many high schools in the City, are small schools of between 300 to 500 students that share a campus with other schools; several schools are located

one building or set of buildings. Campus schools share facilities like libraries and gymnasiums and some number of disciplinary problems occur between students of different schools. While there is often collaboration between school administrators who share a campus, each school is responsible for responses infractions by its students and shared use of facilities limits access to those resources for use by an individual school's youth court. The campus schools in the project have been focusing on their own students, but are considering approaching others on the campus about the possibility including them.

A few other issues arose as schools entered the weeds of implementation. The schools did not receive funds as part of participating in this program, and, while committed to leveraging existing resources to support the youth courts, administrators were confronted with cuts to their budgets as part of overall reductions to public education funding. Staff who had gone through youth court professional development training were laid off or reassigned, requiring a reconfiguration of resources. Schools had to think creatively about finding meaningful restorative sanctions on the school campuses which would allow respondents to repair harm caused by their actions and also engage them in a positive activity that wouldn't run afoul of rules for student activities or existing staff responsibilities. Some schools experienced initiative fatigue, with the youth court project as being the latest in a series of new efforts to affect school climate, improve student performance or streamline school administration.

It is important to note the range of challenges for bringing youth courts into schools because all of them can be addressed with creativity and commitment. This commitment is itself a valuable indicator of the likelihood that the school will fully integrate the youth court into their approach to school discipline, as opposed to creating an isolated program for certain students, like a moot court or mock trial program. In today's school environments, with limited budgets, increasingly standardized curricula, heightened pressure on educators and students to achieve state and national standards, and the pervasive use of zero tolerance approaches to discipline, programs like youth courts need, first, a champion in the school, and, eventually, broader engagement by the school community. Leadership from the top is important, but teachers and students also have to understand and accept the rationale and methodology of the restorative justice youth court model for it to work. It is one of the primary goals of the NYCHYC to look at how schools can achieve this kind of support for a youth court program, and share that knowledge generally.

CONCLUSION

School-based youth courts represent one potentially powerful tool for teachers, administrators and students looking for alternatives to traditional, punitive disciplinary approaches. The youth court model has the benefit of being flexible, and can be shaped to fit a range of school environments, and fits within the movement to implement restorative practices in schools. There is a substantial need for more research these programs, to look specifically at their impact on individual outcomes, such as future behavior, educational attainment and civic engagement, and also at their impact on school communities. While it is too soon to draw many lessons from the NYCHYC experience, the Center hopes the project will not only contribute to the field but also spur greater interest in implementing and evaluating these promising programs.

NOTES

1. For example, a 2006 report by the American Psychological Association reviewing the effectiveness of zero tolerance policies found that they had not improved school climate or school safety and have actually increased disciplinary problems and dropout rates. (Skiba, Reynolds et al., 2006). More recently, a major study of the impact of school disciplinary practices in Texas, reviewing a sample of almost one million students, found that students who were suspended and/or expelled were much more likely to be held back or drop out-of-school than their peers, and much more likely to be in contact with the juvenile justice system. (Fabelo, Thompson and Plotkin, 2011).
2. According to a national study by the Urban Institute conducted in 1998, 67% of the then-existing youth courts nationwide started operating since 1994 (Butts & Buck, 2000).
3. According to a program summary of the Federal Youth Court Program, the OJJDP, NHTSA and the Office of Safe and Drug Free Schools annually provided \$700,000 to the Federal Youth Court Program; the federal government has provided more than \$5 million to date. (<http://www.ojjdp.ncjrs.gov/programs/ProgSummary.asp?pi=23>). Currently, though, state and local governments provide most funding for youth courts; there are no open federal funding streams designated specifically for youth courts.
4. The data is available at http://www.youthcourt.net/?page_id=24.
5. A survey from 2005 of a much smaller national sample found that 10% of programs were school-based (Pearson and Zurich, 2005).

6. The most significant variation has to do with basic structure. There are four primary youth court models: (1) adult judge, in which an adult possesses the authority to rule on legal terminology and procedure while youth may serve as attorneys, jurors, clerks, bailiffs, and jurors; (2) youth judge, in which youth serve in the judicial role; (3) tribunal, in which youth attorneys present a case before a panel of youth judges who assess the case and assign sanctions without a jury; and (4) peer jury, where the decision-making body is a group of youth who ask questions in their roles as jurors, with either youth or adults initially presenting the case. While most youth courts follow one model, others combine different aspects of each of them. In more than half the states that have youth courts, their structure and functioning are determined to some degree by state legislation.
7. Drawing definitive conclusions is difficult as studies, and youth courts, vary in how they measure recidivism, and comparisons among youth courts and comparison groups are difficult, given the different court models and different types of cases. The HFI study included a review of research on recidivism, but found that only three previously published studies used appropriate comparison groups to measure the impact of youth courts on recidivism, and the results were mixed (Schneider, 2008, at 23). The ETC Project, which conducted an in-depth study of four youth courts, using control groups of similarly situated youth, placed a strong focus on recidivism as a measure of youth court success by comparing outcomes for “treatment groups” comprised of respondents in youth court with “non-equivalent comparison groups” comprised of youth who went through each community’s traditional juvenile justice system (Butts et al., 2002, at 13). Two of the youth court sites studied presented “significantly lower rates of recidivism” in comparison to control groups, although differences for the other sites were not statistically significant.
8. In February, 2011, the Center circulated an application through a number of different channels. Applicants were required to identify a planning team, describe why they were interested in starting a youth court and what the key challenges their schools faced that they hoped to address, and had to agree to integrate the youth court into their disciplinary practices and cooperate with the program evaluation. The applications had to be submitted by the school principals. Seven schools were selected initially, including five schools in Brooklyn and two schools in the Bronx. One Brooklyn school dropped out over the summer. Another school in Queens where the Center began working in the fall of 2011 has been integrated into the project.

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ENHANCING EDUCATORS’ CAPACITY TO STOP THE SCHOOL-TO-PRISON PIPELINE

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In this paper, we—a group of experts from three federally funded educational technical assistance centers housed at American Institutes for Research—describe four ways teachers and school leaders can affect children’s trajectory into and through the pipeline to prison. We then detail the competencies necessary to promote the kinds of positive interactions with children, youth, and their families that will help block the pipeline. Next we describe promising approaches to enhancing those competencies and capacities among educators throughout their career continuum. Examples of successful research-based initiatives for each approach are included.

Teachers, principals and other school-based personnel play a vital role in stopping the school-to-prison pipeline. Through their interactions with children, youth and their families, educators can ameliorate (or exacerbate) the impact of factors—such as poverty, discrimination, trauma and lack of appropriate health care, among others—that can lead to learning and behavioral problems, delinquency, arrest, incarceration and recidivism.¹ When educators have the competencies and capacity—the knowledge, skills,

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beliefs, values, attitudes, experiences and supports—to effectively address the diverse academic, social and emotional learning needs of all students and to build positive conditions for learning, they not only can begin to redress the overrepresentation of students of color in the pipeline to prison but also put more students on paths to successful futures. Ensuring that educators have this capacity is critically important and requires focused attention on each aspect of the educators’ career continuum—recruitment, preparation, induction and ongoing professional learning and development.

In this paper, we—a group of experts from three federally funded educational technical assistance centers housed at American Institutes for Research (AIR)²—describe educators’ role in the school-to-prison pipeline and detail the competencies necessary to promote the kinds of positive interactions with children, youth and their families that will help block the pipeline. We then describe promising approaches to enhancing those competencies and capacities among educators throughout their career continuum. Examples of successful research-based initiatives for each approach are included.

P-12 EDUCATORS’ ROLE IN THE PIPELINE³

Educators—teachers and school administrators—can affect children’s trajectory into and through the pipeline to prison in at least four ways: (1) through their relationships with children and youth, (2) through their attitudes and social emotional competence, (3) by contributing to the conditions for learning and (4) through their responses to student behavior. Although these factors are analytically distinguishable, they interact. And although we cite the empirical literature, our recommendations are also consistent with focus groups and interviews we have conducted with students, teachers and families, across the country. Each of these four ways is explored in turn.

EDUCATOR–STUDENT RELATIONSHIPS

Findings from developmental science repeatedly show that positive teacher–student relationships in schools are central to positive academic and social outcomes for students⁴ and therefore can help prevent entrance into the pipeline. Similarly, positive relationships with teachers are associated with reductions in dropping out, delinquency and other high-risk behaviors.⁵

These relationships, which appear to be particularly important for students who are at risk,⁶ can have a long-term impact as well. Hamre and Pianta, for example, found that negative relationships marked by student–teacher conflict and student dependency on teachers in kindergarten were

positively related to negative academic and behavioral outcomes in eighth grade.⁷ And other longitudinal research shows the protective function of school connectedness.⁸

EDUCATOR ATTITUDES AND SOCIAL EMOTIONAL COMPETENCE

Teacher attitudes include their expectations for student success, their sense of individual and collective accountability for and efficacy in realizing high expectations for students and the relational trust that they have for each other, administrators, families and students. Educators' high expectations for students also have repeatedly been shown to positively influence student outcomes, particularly among students who are at risk.⁹ Unfortunately, despite good intentions, many educators have low expectations for students whom they perceive as being at-risk. These low expectations reflect the interaction of experience, deficit-oriented thinking, unconscious prejudice and the lack of peer and institutional support. Similarly, teachers' sense of responsibility for student outcomes, their belief that they are able to realize these aspirations and the relational trust they have with students, their family and the community are all linked to positive and negative student outcomes (e.g., whether students attend school, maintain effort on difficult learning tasks and improve academically). Research suggests that staff in schools that work well with students who are at risk of poor outcomes share a sense of mutual trust and collective efficacy that can help them implement student-centered approaches that reduce disciplinary problems.¹⁰

The issues here are not just attitudinal. Teaching is a demanding and stressful job, particularly in environments where there is a high level of student need and a low level of institutional support. Navigating the profession's role demands depends in part upon teacher competence. Greenberg and Jennings have synthesized literature that suggests teachers' social and emotional behaviors can affect student outcomes as well.¹¹ Their observations are consistent with critical incident interviews that AIR staff have conducted with teachers. Teachers' social and emotional behaviors set the tone for a classroom climate that can facilitate desired student outcomes or exacerbate poor student outcomes. Moreover, teacher stress and burnout, which can result from teachers' inability to cope with the emotional demands of teaching, can negatively affect student outcomes by contributing to poorer teacher attendance and more teacher attrition.¹²

ENSURING CONDITIONS FOR LEARNING

Teachers play a key role in building conditions for learning, both in their classes and in the school. Research suggests that safety, student social-emotional competence, support and the experience of meaningful challenge are proximally related to learning¹³ and that these conditions are particularly important for students who are disengaged or at risk of school failure.¹⁴ These conditions are interdependent and reinforce each other.

Safety

Safety includes physical and emotional safety. When students feel physically unsafe, they respond in a variety of ways that interfere with learning and place them at additional risk of involvement with juvenile justice—staying home, carrying weapons, joining gangs, acting tough, or coming to class late and/or hyperaroused and/or with a level of anxiety that interferes with learning. When students do not feel emotionally safe, they may exhibit similar avoidance behaviors. In addition, they may become less likely to take the risks that are associated with learning and thinking creatively. Adults can create a physically and emotionally safe environment by the policies they create, the way they implement the policies (e.g., addressing bullying when they observe it), by listening to student safety concerns and responding in what they perceive to be a helpful manner, by engaging students in the solutions and by modeling and reinforcing appropriate behavior and emotional control.

Social and Emotional Learning (SEL)

Student social competence contributes to safety as well as the student's ability to focus on and persist in learning. Although all students need to build their social and emotional competence, this need may be particularly critical for vulnerable students who have experienced trauma or have had other adverse childhood experiences. SEL is a process through which children and youth (as well as adults) learn to understand and manage their emotions and relationships. SEL helps create a positive school environment, setting the foundation for academic achievement, maintenance of good physical and mental health, parenting, citizenship and productive employment. Evidence demonstrates that when schools effectively implement employ efficacious SEL programming and teachers promote and facilitate social emotional learning in classrooms, both students' social and academic outcomes improve.

Challenge

The experience of meaningful challenge involves energizing and supporting student engagement in the educational process. This dimension has academic, behavioral, cognitive and psychological components, which are enhanced when the other conditions for learning are present. Educators are able to engage and challenge their students when the learning activities they design and implement are culturally competent, build upon the student's strengths and interests and are perceived by the student and people who are significant in his or her life as being relevant to the student's future. Unfortunately, many students who are at risk of failure and of involvement with juvenile justice attend schools where adults have low expectations for them and fail to engage their interests or provide effective support for learning. Challenge and engagement often depend upon the capacity of educators to promote and support learning and are enhanced by the students' experience of support within a disciplined learning environment.

Support

Support includes the availability of educators who can help to meet students' social, emotional, behavioral and academic needs. Support also refers to the students' sense of connection and attachment to adults in school and of being cared about and treated well and respectfully by them. Optimizing support requires creating caring connections with adults who can offer encouragement, support and nurturing and who are significantly involved in students' lives. Students learn and achieve more when they feel that their teachers treat them with care and support. Again, these caring connections are preventative of negative outcomes. Too often, students who need support do not receive it or perceive its availability. While in part this is a function of organizational capacity and student perception, it is a function of building and sustaining the capacity of teachers to develop supportive relationships with students.

EDUCATOR APPROACHES TO DISCIPLINE

The fourth, and perhaps most important, role that educators play in stopping the pipeline to prison involves how they prevent and respond to problem behavior. The issue here also involves policy and institutionalized practices, which often focus on punishment, exclusion and external discipline.¹⁵ The individual and collective behaviors of the school staff, however play powerful

roles in shaping student behavior. This is particularly important, because educator practices often contribute to students' indiscipline and oppositional behavior.¹⁶

Unfortunately, too many educators lack skills and knowledge in this important area. For example, in a recent nationwide poll of teachers, 95 percent of respondents reported that “ensuring that students who are severe discipline problems are removed from the classroom and placed in alternative programs more suited to them” is a “very effective” or “somewhat effective” strategy for improving teacher effectiveness (68% and 27% respectively).¹⁷ This strategy was deemed more effective than the other options presented, such as reducing class size and improving professional development among others. In a 2004 Public Agenda survey, a similar percentage of teachers thought that establishing and enforcing zero-tolerance policies so that students would know they will automatically be expelled from school for serious violations would be “very effective” (70%) or “somewhat effective” (23%) as a solution to the discipline and behavioral problems found in the nation's public schools.¹⁸

These attitudes are prevalent despite research that finds a link between the types of punishment associated with zero-tolerance policies, including suspensions and expulsions and a variety of negative outcomes.¹⁹ A new groundbreaking statewide study followed nearly 1 million Texas public secondary school students for at least six years using school and juvenile justice system records found that when students are suspended or expelled, the likelihood that they will repeat a grade, not graduate, or become involved in the juvenile justice system increases significantly.²⁰ This finding is especially significant because of the extent to which educators suspend and expel students and the rationale educators invoke for those punishments. For example, Fabelo et al. found that almost 60 percent of the million students in their study were either suspended or expelled at least once between seventh and 12th grades.²¹

The factors leading to these attitudes include a lack of understanding of students' developmental needs and how factors such as culture, trauma and health (including mental health) affect student behavior. This lack of understanding, particularly when coupled with rigid behavioral expectations, can contribute to misinterpreting the behavior of students who are frequently harder to reach and in need of more supportive connections than their peers. A belief in the power of punishment and a confounding of high behavioral expectations with low thresholds for triggering punitive sanctions, together with a lack of skill regarding how to respond to problematic behavior, can allow small incidents to grow into bigger ones, unnecessarily escalating

problem behaviors and contribute to students' subsequent involvement in the justice system. These challenges are manifested within classrooms, other parts of the school and in how administrators and specialists respond to troubled students of color. This lack of capacity helps explain the overrepresentation of students of color in the pipeline to prison.²²

NECESSARY EDUCATOR CAPACITIES/COMPETENCIES TO STOP THE PIPELINE

In light of the four ways that educators can influence the school-to-prison pipeline, it is critical that effective approaches be developed and implemented to enhance educator capacities and competencies to close the pipeline. These competencies are as follows, organized by role.

Educator-Student Relationship

- o The ability to establish supportive and productive relationships with students and their families in a cultural and linguistically competent manner

Eduactor Attitudes and Social Emotional Competence

- o The ability to maintain and demonstrate abiding high expectations
- o The ability to model social emotional competence and integrate social emotional learning strategies/activities/programs and other restorative justice initiatives into the academic curriculum throughout the school year
- o The ability to identify students' academic as well as social emotional strengths and needs on the basis of discussions with students, other educators and data

Ensuring Conditions for Learning

- o The ability to provide a safe and supportive learning environment
- o The ability to implement developmentally appropriate, engaging, effective and challenging instruction

Educator Approaches to Discipline

- o The ability to use positive behavioral approaches as opposed to reactive or punitive approaches that may create or escalate problem behavior
- o The ability to partner with other educators to coordinate instruction, programming and school climate improvements using a tiered approach

Current ongoing work that AIR is conducting in collaboration with the American Federation of Teachers, the National Association for the Advancement of Colored People and the League of United Latin American Citizens aims to develop a measure of teachers' social emotional competence to be used both as a tool for research and as professional development.²³

APPROACHES TO ENHANCING EDUCATOR CAPACITY ACROSS THE CAREER CONTINUUM

Ensuring that educators have the necessary capacity to work effectively with at-risk children and adolescents cannot be done piecemeal. As those seeking to improve teacher quality and effectiveness have learned, managing educator performance requires attention to each aspect of an educator's career—from recruitment through retirement.²⁴ Although the approaches we describe tend to focus on enhancing teacher capacity, because school leaders often come from the ranks of teachers (in fact 90% of principals have four or more years of teaching experience), these approaches will support all educators.

COMPREHENSIVE RECRUITMENT

Recruiting more educators of color is imperative and requires a comprehensive approach. Nationally, the ethnic and racial diversity of the educator workforce does not reflect the diversity of the student body. Although nearly one half (45 percent) of the 49 million public school students in the United States are students of color, only 18 percent of public school teachers, 20.5 percent of public elementary school principals and 16 percent of public high school principals are.²⁵ This mismatch between educators' backgrounds and the backgrounds of the students they work with is problematic because a lack of understanding and separation from the out-of-school lives of students and their families can hinder educators' capacity to establish positive, caring relationships with their students, to have abiding high expectations for students of color and to implement culturally relevant practices.²⁶ Moreover,

although the exact mechanisms are not known, emerging research suggests that, all things being equal, teachers of color are more effective with students of color in promoting student academic achievement than their white counterparts.²⁷

Unfortunately, school systems have difficulty recruiting educators of color for a number of reasons. For example, young people of color do not often see the teaching profession as attractive because it does not pay as well as other jobs, they often have negative experiences from their own PK–12 schooling, they lack ongoing support to be successful in college and they may have difficulties with English.²⁸ In a vicious cycle, the lack of teacher role models that look like these students and the lack of inspiring teachers who are well prepared to meet the needs of diverse learners also play important roles in the lack of interest among students of color to enter teaching and subsequently school leadership.

One promising approach to recruiting educators of color is through comprehensive recruitment programs, sometimes called “grow-your-own” programs. These programs seek out promising middle school or high school students of color and provide them with college visits, experience working with children, college-level coursework in high school, scholarships and coaching and other supports to be successful in college. For example, one recently developed program in Denver engages high school students with a teacher preparation program that is part of a career- and college-readiness concentration. Students exploring an interest in teaching can preview college courses that address teaching special needs students as well as reading skills. They also can enroll in courses taught on college campuses and fulfill their service requirement working alongside early education teachers at an onsite childcare center. A small number of similar programs exist around the country, including the Montclair Teacher Education Advocacy Center (TEAC) based at Montclair State University and Project FUTURE at Texas Tech, but these are far too few. States and school districts need to put increasing pressure on institutions of higher education to enhance their efforts at comprehensive recruitment.

CLINICAL PREPARATION

Increasing teacher diversity through improved recruitment practices will have some impact on stopping the school-to-prison pipeline, but as Villegas and Davis point out, although teachers of color have “insider experiences” and unique knowledge and insight about the lives of their students, they often need to be taught to draw on that knowledge in order to build bridges for their students to learning.²⁹ Such skills are not a given and teachers of all

backgrounds need solid preparation, induction and ongoing support to ensure that they have the necessary capacities to block the pipeline.

Selecting for and building such capacities—like social-emotional competence, knowledge of child development, the ability to establish supportive relationships with students and their families and the ability to implement positive behavioral approaches—in teacher candidates is challenging and few educator preparation programs have traditionally focused on fostering these capacities. Teaching (and by extension instructional leadership) is a clinical practice profession in which client/practitioner relationships are central, ongoing professional learning an imperative and standards of practice are followed. As such, the effective preparation of educators requires a much more practice-based approach that not only supplies candidates with contemporary knowledge of child and youth development, but also provides them opportunities to learn how to apply that knowledge in the classroom.³⁰ In clinical preparation, teacher candidates learn directly from their practice by working in real classrooms (or in laboratories that approximate real classrooms) with real students and interpreting real data under the guidance of experts.

Given the centrality of relationships in clinical practice professions, as well as what we know about the power of positive educator-student relationships, educator preparation programs must support the development of cultural competence among candidates so that they can work effectively with students at risk of entering the pipeline-to-prison. This kind of preparation requires close school-university partnerships and a new way of organizing teacher and leader education and although many preparation programs are expanding their own capacity in this direction, others have a long way to go.

A promising approach to improvement in clinical preparation is the development of teacher residency programs. Residencies are intensive, extended one-year preparation programs modeled after medical residency training. An example of this approach is the Urban Teaching and Education Academy in a Clinical Home (UTEACH) program at California State University–Long Beach. In UTEACH, all content area methods courses and student teaching take place in urban elementary schools. Candidates and university faculty are embedded in these complex urban environments, becoming members of the school community and school faculty see them as partners for supporting students who come from high-poverty communities and are limited English-proficient. Indeed, initial evidence suggests that achievement has risen among students in the partner schools. Thanks in part to federal funding, the number of urban teacher residencies with similar models is increasing.

HIGH-QUALITY INDUCTION

Recruiting and preparing candidates with the necessary capacity to stop the pipeline must be followed up by high-quality, comprehensive induction supports so that such educators can persist and be effective in high-need schools. High-quality, comprehensive new teacher induction is a multi-year process and includes a thorough orientation to the school and community, common planning time with more expert teachers, high-quality mentorship or coaching, release time to observe more expert teachers and a reduction in teaching loads. Although the evidence from research is mixed, the preponderance suggests that comprehensive induction supports improve teacher retention and are associated with improvement in instructional practices like adjusting learning activities to meet students' interests and creating a positive classroom environment.³¹ Improvements in retention will moreover help increase educator diversity, as the turnover rate among teachers of color is higher than among white teachers, adding to the recruitment burden.³²

Comprehensive induction, however, is not often available in large urban or small rural systems, particularly for teachers that start in the middle of the school year.³³ Although many systems provide mentors for new teachers, these mentors often are not prepared to help novice teachers learn in and from their practice and mentoring programs are too often incoherent, lack follow-up and sometimes merely ask mentors to check in with their mentees a couple of times a semester. Induction that can support teachers in blocking the pipeline-to-prison provides more than the prevailing and largely ineffective one-on-one mentoring that many districts offer, but rather supports teachers' entry into a professional learning community at every school.

School leader induction tends to be composed primarily of mentoring and principals rank mentor programs among the most important components of their preparation and induction into their leadership roles. Research suggests that to be effective, principal mentoring must be standards-based, with careful attention to mentor pairing. Research and practice suggests, moreover, that grouping new principals into cohorts and providing authentic opportunities for them to solve problems they face together is an effective induction practice.³⁴

EFFECTIVE ONGOING OPPORTUNITIES TO LEARN

To continually enhance and sustain educator capacity to ameliorate factors that lead some students to involvement in the justice system, educators need effective opportunities to learn and grow throughout their career. Concomitant with the notion that teaching and instructional leadership is essentially a clinical practice, the most effective professional development opportunities are practice-based, job-embedded professional learning activities that involve teachers' active engagement, are collaborative and provide teachers feedback on their practice,³⁵ such as collaborative coaching or lesson study. These activities are often done as part of professional learning communities. This type of professional learning supports educators in understanding the needs of their students and the short- and long-term impact of their instruction on students' learning and engagement and in understanding how to adapt their instruction as a result of these understandings.³⁶

CONCLUSION

In sum, if educators are empowered with the core capacities described in this article, they can help eliminate the school-to-prison pipeline. These capacities, however, are not built in a day and must be nurtured throughout educators' careers—through comprehensive recruitment, clinical preparation, high-quality induction and significant ongoing opportunities to learn. Although these approaches are generally not undertaken with the express purpose of redressing the school-to-prison pipeline per se, they hold great promise for doing so.

It is important to note, however, that individual educator capacity is limited by school capacity. In other words, educators who are culturally competent and have the disposition and knowledge to establish supportive relationships with students and utilize positive behavioral approaches also must be given the time, structures and cultures to enact those critical capacities. For example, many high school teachers have teaching loads of more than 130 students. They may have the social emotional competence to block students' entry into the pipeline, but giving adequate support to 130 diverse students would take a superhuman effort. Another aspect of schools that can restrict educator capacity is new educator evaluation systems that privilege student academic achievement over other important outcomes for children and youth. As states and districts design and implement educator

evaluation systems, they must do so in a way that is supportive of the educator capacities presented in this article and help end the school-to-prison pipeline once and for all.

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³Due to space constraints in the notes section, we cite only keystudies. A version with full references will be made available at http://safesupportiveschools.ed.gov/reader.php?upload=/20120216_EnhancingEducatorsCapacitytoStoptheS2PP.docx

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MORE BOOKS, FEWER BARS: IMPROVING EDUCATIONAL OUTCOMES AND REDUCING YOUTH INVOLVEMENT IN THE JUSTICE SYSTEM THROUGH TARGETED INVESTMENT IN MULTI-STAKEHOLDER COLLABORATIVE EFFORTS

JIM FREEMAN*

Advancement Project

This paper discusses the need for multi-stakeholder collaborative efforts to address the overuse of exclusionary discipline and justice-system referral for K-12 students, and how recently-developed political consensus and stakeholder interest have created a rare, not-to-be-missed opportunity for such efforts to effect broad-scale improvements in how the educational and developmental needs of youth are met. The paper presents the most common hurdles experienced by similar collaborative efforts, and discusses how they can be overcome through targeted federal- and state-level investments.

School discipline has become a high-profile issue in recent years, largely because of four widespread trends: (1) the over-reliance on police and juvenile courts to address school-based behavior; (2) the misapplication of disciplinary approaches that exclude students from school, including out-of-school suspensions, expulsions, and referrals to alternative schools or programs; (3) the increased presence of law enforcement or security personnel and infrastructure (metal detectors, surveillance cameras, etc.) within schools, and the adverse effects this has had on school climate; and (4) the disproportionate impact these dynamics have had on communities of color.¹ While the precise causes of these shifts in policy and practice have differed across communities, the cumulative effect has been to transfer considerable amounts of responsibility for addressing the needs of youth to police and the justice system. In some ways, that transfer has been direct, such as when

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students are arrested or referred to juvenile court for behaviors that would formerly have been addressed by school personnel. In other ways, the transfer of responsibility has been indirect, such as by using disciplinary approaches that contribute to students dropping out – or being “pushed out” – of school, increasing the likelihood that they will enter the juvenile or criminal justice systems. The overarching result is that police officers, district attorneys, and juvenile court judges have far more of a presence in the lives of K-12 students than ever before.

The harmful effects these changes in policy and practice have had on students, families, and communities have been well-documented and well-publicized, as have the failures of the “zero-tolerance” approach to produce safer and more effective schools.² There have also been other, less obvious, harms to public health, public safety, and the economy, prompting a pronounced and sustained public outcry for school discipline reform, and an unusual bipartisan and ideologically-diverse consensus around the need for reform.³

To address these issues, commonly known as the “School-to-Prison Pipeline” [this term will be used throughout this paper as shorthand for the confluence of school discipline and climate issues being discussed], there are many school discipline reform strategies that can be employed by individual stakeholders – schools, police, prosecutors, and courts – and that can produce significant positive results.⁴ Fortunately, there has been a flurry of policy advocacy around these issues within the last few years, and a significant amount of policy change. Many of those efforts have led to positive differences being made in the administration of school discipline, and thus in the lives of students and the success of communities.

However, what have gone largely unaddressed (with some notable exceptions) are the cross-systemic structural issues that lie at the root of the school disciplinary crisis. Most of the policy responses to the Pipeline have been relatively narrow (such as by focusing on only one agency, usually schools), individualized (such as by relying solely on professional development to address the problem), or even superficial (such as by making incremental changes to legal mandates). While these all may be important steps, their impact is limited if they are not part of a larger coordinated effort to address the misallocation of responsibility and resources for meeting the educational and developmental needs of youth.

THE NEED FOR INVESTMENTS IN MULTI-STAKEHOLDER COLLABORATIVE EFFORTS

The School-to-Prison Pipeline lies at the intersection of a complex web of agencies and systems that affect youth, and the responsibility for creating the policies and practices that drive it is shared among politicians, school systems, police/sheriffs, prosecutors, and juvenile courts.⁵ Thus, any comprehensive solution to these problems must necessarily involve many, if not all, of these stakeholders, among others.⁶

In other words, structural problems require structural solutions. Thus, in addition to the many admirable school discipline reform efforts currently underway, there is a dire need for additional cross-sector collaborative efforts that address the Pipeline. These types of efforts have produced the most promising results so far and can serve as models for other communities experiencing similar issues.⁷ Additionally, because of the widespread interest nationally in developing similar partnerships, they are ripe for being replicated at a broad scale. In short, a policymaking window has opened, where urgent needs have been met with intense interest, creating a very rare, not-to-be-missed opportunity to effect broad-scale policy change.

However, for many of the same reasons the Pipeline was created in the first place,⁸ developing such multi-stakeholder partnerships can be challenging. Many once-promising efforts to replicate initial successes have fallen short in recent years due to the difficulties associated with bringing these various actors together for meaningful dialogue that leads to sustainable progress. Yet smart, targeted investments, guided by sound policy, can overcome these hurdles and allow for such collaborative efforts to flourish. Thus, it is the recommendation of this paper that *federal and state funds be allocated (or reallocated from existing grant programs) toward the creation of local-, regional-, or state-level multi-stakeholder collaborative councils charged with developing and implementing comprehensive strategies to dismantle the School-to-Prison Pipeline.*

Such collaborative efforts, when supported by well-designed grant programs, have a unique ability to cut through the complexities of local politics and override capacity and budgetary constraints so that all stakeholders engage in the vitally-important dialogue about how best to meet the needs of youth and communities.⁹ For that reason, of all the policy interventions available, investing in these multi-stakeholder collaborative efforts may represent the single best opportunity to dismantle the School-to-Prison Pipeline at a broad scale over the next several years. Even modest investments at the federal and state levels could generate dozens of successful models of reform across the country. These initiatives would not only benefit

the many youth, families, and schools that are directly affected by these issues within those communities, but they would also serve as catalysts for broader reform and provide the foundation for addressing the broader structural challenges described above. In other words, smart investments in this area will produce a network of public agencies that is better equipped to address the needs of youth, resulting in improved educational outcomes, reduced justice-system involvement for youth, substantial economic benefits,¹⁰ and healthier, safer communities.

COMMON BARRIERS TO EFFECTIVE MULTI-STAKEHOLDER COLLABORATIVE EFFORTS

To make these investments worthwhile, it is important to learn from both the successes and failures of previous collaborative efforts. Of course, each locality, region, and state has its own particular “structural ecology,”¹¹ heavily influenced by localized structures, individual personalities, relationships (inter-personal, inter-organizational and intra-organizational), habits and customs. Nevertheless, there are a series of challenges or obstacles that have consistently arisen while forging, or attempting to forge, effective multi-stakeholder partnerships directed at addressing the School-to-Prison Pipeline. If future collaborative efforts are not mindful of these hurdles, they are highly unlikely to achieve the results they desire, and that are necessary.

KNOWLEDGE GAPS

Because this issue involves so many agencies and stakeholders, each with its own particular perspective, it can be challenging to even find consensus around a definition of the problem the group intends to solve. There tend to be some participants who believe that, to the extent there even is a problem, it is attributable to the effects of poverty, “bad parenting,” or “delinquent youth,” and thus is incapable of being solved through systemic reforms. These challenges are often exacerbated by the lack of consistent and reliable data. For example, there is an overall dearth of detailed information on the use of school-based arrests and referrals to law enforcement, out-of-school suspensions, expulsions and referrals to alternative schools and programs, as well as the localized causes and effects of these practices. Even where such data exists, it is often inaccurate or incomplete.¹² As a result, it can be difficult to educate the members of an ideologically-diverse group about the full extent of the Pipeline.

Even if a group is able to find agreement about the nature and extent of the problem, there is frequently insufficient knowledge about how best to solve it. First, there is a general tendency to sidestep broader systemic issues in favor of more superficial remedies.¹³ Second, limited cross-agency knowledge frequently poses a challenge. For example, school officials are generally not experts in safety, while police and other law enforcement officials are not generally experts in creating healthy, productive school climates. Thus it can be challenging to unite these often divergent perspectives around a shared vision for creating safe, healthy schools.

FAILURE TO MANAGE POLITICAL RISK

School discipline implicates a number of politically-charged issues, not the least of which are school safety, youth violence and youth victimization. The safest, most risk-averse, choice for policymakers facing political, public or media pressure around these issues has frequently been to preserve the status quo or even expand the role of police, security and the justice system within schools. These dynamics have been exacerbated by policies that create or reinforce misalignment of interests across agencies. For example, success in addressing student needs and disciplinary challenges without over-reliance on the justice system is rarely, if ever, rewarded under the current policy structure. On the contrary, there are often perverse incentives that promote the departure or removal of students from their schools, with the most prominent example being the No Child Left Behind Act.¹⁴

Simply put, the political benefits associated with “getting tough on crime,” expanding the incarcerated population, and excluding large numbers of students from school have traditionally exceeded their political costs (though that particular calculus is changing).¹⁵

INCOMPLETE PARTICIPATION

When representatives from school systems, police or sheriff’s departments, prosecutor’s offices and juvenile courts come together, they bring with them their own legal mandates, political agendas, chains of command, organizational culture and ideologies, sometimes reflecting divergent views around issues of crime, justice, punishment, prevention and deterrence.¹⁶ There can be considerable resistance to relinquishing agency autonomy (or in the case of regional- or state-level efforts, “local control”) through participation in collaborative endeavors. There is also an inherent fragility to such efforts,¹⁷ as any one of several key stakeholders in a particular jurisdiction

could undermine or destabilize otherwise-promising efforts. Plus, even if agency leadership is able to find consensus, that still does not guarantee success. Line staff must be invested in any reforms for there to be positive change that outlasts individual leaders.

LEADERSHIP DEFICIENCIES

Creating effective cross-sector collaborative partnerships requires a certain leadership capacity to assemble the appropriate individuals and have productive, solutions-oriented conversations without being derailed by the challenges and conflicts that will inevitably arise. Many once-promising partnerships have fallen short of expectations because the groups were unable to accomplish the following:

- Set a clear vision for the collaborative, focused on addressing root causes and systemic issues;
- Address power imbalances and “turf” issues that arise among participants;
- Withstand externally-imposed pressure to address school safety and disciplinary concerns in a manner that is inconsistent with group objectives;
- Confront common myths that impede progress, such as: (1) youth today are more “violent” and “disruptive;” (2) schools are thus less safe than ever before; and (3) increasing police presence in schools and referring offending students to the justice system equates to greater safety;
- Confront participant values and beliefs that may come into conflict with potential solutions, such as the nearly unfettered discretion to arrest and prosecute enjoyed by police and prosecutors, or the tendency to fixate on whether behavior was “wrong” rather than on what best addresses the problem and meets the needs of youth and communities; and
- Share both credit and blame that results from collaborative activities.

RESOURCE CONCERNS

There are at least three significant resource issues that frequently arise within these initiatives. First, each agency tends to be highly protective of its own budget and resources, and the power that emanates from them. Thus, to the extent that resource reallocation will be among the potential solutions discussed (and in at least most cases, it should be), many key stakeholders are reluctant to engage fully unless there are countervailing incentives.

Second, and far more prosaic (but nevertheless real), is that participating in a series of meetings requires an outlay of resources, covering staff time, meeting space, facilitation, and refreshments, among other things. Given that many of the relevant agencies are already experiencing significant budgetary constraints, these relatively small investments of time and funds can be more than enough to prevent a collaborative effort from even getting off the ground.

A third resource concern highlighted by the recent economic downturn is that most state legislatures are steering clear of bills that carry a fiscal note and would thus require funding, however minimal.

FAILURE TO SUSTAIN

Crafting solutions is one thing; implementing and sustaining them over time is another. Achieving sustainable change is always challenging, but it is perhaps especially so when multiple agencies are involved. Because these collaborative efforts are meant to address some deeply-entrenched problems, the implementation of full, comprehensive solutions will likely not happen quickly. Additionally, even if promising reforms are implemented, they can be destabilized by leadership changes, staff turnover, shifts in values, budget cuts, and political or public backlash if appropriate mitigation steps have not already been taken.¹⁸

RECOMMENDATIONS FOR MAXIMIZING INVESTMENTS IN MULTI-STAKEHOLDER COLLABORATIVE EFFORTS

While the obstacles described above can be formidable, the potential impact from successful multi-stakeholder collaborative efforts to address the School-to-Prison Pipeline makes them well worth confronting. Additionally, these obstacles can be overcome through federal and state investments if they are well-tailored to provide communities or states with the necessary resources and direction, promote interest convergence, establish the necessary incentives (monetary and non-monetary) for full participation and alter the political calculus around participation in such collaborative activities.

What follows are recommendations for federal and state investments in multi-stakeholder collaborative councils that are well-positioned to generate meaningful impact in dismantling the School-to-Prison Pipeline. They are heavily informed by similar initiatives in other fields, such as the Juvenile Detention Alternative Initiative and other juvenile justice reform efforts, Promise Neighborhoods, the Youth Promise Act and the Center for Medicare and Medicaid Innovation.¹⁹

STRUCTURE

1. Potential grantees should include localities, regions and states.

While the optimal jurisdictional boundary in many communities will be at the local level, in others it may be at the regional level. Additionally, while state-level bodies have certain limitations in addressing localized issues, they can be especially effective in addressing funding issues, legal mandates, data collection, accountability structures, training issues, and technical assistance for localities, among other things.

2. Local and regional grants should be directed at communities with a particular need for School-to-Prison Pipeline reform.

Data indicating the use of exclusionary discipline, the use of justice-system referrals, graduation rates, and racial disparities within all three should be used as selection criteria, along with poverty indicators.

FUNDING

3. Consider providing multi-stakeholder collaborative councils with initial seed funding or planning grants, with continuing funding in subsequent years provided that they meet the appropriate benchmarks.

4. Consider leveraging funding by encouraging councils to evaluate other funding opportunities from government sources, philanthropy, and business partners.

Incentives around matching funds could also be included. Additionally, grantees could be provided incentives for reducing justice system expenditures and then reinvesting those funds in other council priorities.²⁰

PARTICIPANTS

- 5. Each council should include, at a minimum, representatives from the school system (or systems), representatives from the justice system, parents or guardians, students and non profit community organizations, though other stakeholders may also be included, as appropriate.**

It is critically important that those most affected by the policies and practices under consideration – namely, students and their parents or guardians – be provided a meaningful role within these processes. Additionally, leaders from community-based organizations can provide invaluable perspective to inform these collaborative efforts. Consideration should also be given to involving social services and mental health providers.

CORE PRINCIPLES

- 6. Each council should be directed to, at a minimum, develop and implement comprehensive strategies to: (a) reduce the number of K-12 students entering the juvenile or criminal justice systems; (b) reduce the use of exclusionary school disciplinary practices; (c) increase high school graduation rates; (d) create healthier and more productive school climates; and (e) address racial and ethnic disparities within school discipline.**

Graduation rates and school climate indicators should be included because while there is certainly inherent value in reducing overly-harsh disciplinary consequences alone, the ultimate goal should be improving educational outcomes. Flexibility should be allowed for additional local innovation, provided that any additions are consistent with the core principles. For example, individual councils may elect to include the reduction in justice system expenditures and improvement in public health and safety indicators as other core principles.

ACTIVITIES

7. Each council must: (a) identify how group activities will be facilitated and coordinated, and how individual members will be held accountable to the group; (b) develop a written work plan focused on addressing structural or systemic issues; (c) perform an assessment of community needs, strengths, and under-utilized resources; (d) develop a plan for involving line staff in the development and implementation of any reforms and sustaining reforms; (e) seek out assistance from subject-matter experts; and (f) perform an assessment of public resource allocations and determine whether there are opportunities to promote improved educational and developmental outcomes for youth through reallocation.

8. *Councils must collect, analyze, and use relevant data.*

All grantees should be encouraged to gather and use a variety of qualitative and quantitative data, including survey results and testimonial evidence.

9. *Councils must develop and implement a communications strategy.*

Effective use of media and other communications tools are vitally important, and often overlooked, when attempting to create, develop, and sustain these reform efforts.²¹

10. *Councils must create a plan for ongoing monitoring, data collection, and data reporting, and there must be independent evaluations performed of the councils' work.*

Ongoing evaluation is critical to capturing and sharing lessons learned with other collaborative efforts, stakeholders and communities.

CONCLUSION

The School-to-Prison Pipeline has contributed to the creation of an oversized justice system that plays too large of a role in the lives of many youth, while straining local and state budgets across the country. However, because of the considerable interest nationally in addressing these challenges through multi-stakeholder collaborative efforts, as well as the unusual political consensus that has been generated around the need for reform, it appears that the stars

are aligned for significant improvements to be made within the next several years. Federal and state officials need only to seize upon this rare policymaking opportunity to generate unprecedented progress in dismantling the structures that have, for too long, limited the educational and developmental opportunities of our Nation's youth.

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¹See, e.g., Advancement Project. (2010, March). *Test, punish, and push out: How "zero tolerance" and high-stakes testing funnel youth into the School-to-Prison Pipeline*. Retrieved from http://www.advancementproject.org/sites/default/files/publications/rev_fin.pdf.

²See, e.g., id.; Skiba, R., et al. (2006). *Are zero tolerance policies effective in the schools: An evidentiary review and recommendations*. Washington, DC: American Psychological Association Zero Tolerance Task Force.

³This has truly become an area of ideological consensus, as evidenced by prominent conservative organizations (e.g., Right on Crime) and law enforcement groups (e.g., Fight Crime Invest in Kids) taking strong stands against zero-tolerance school discipline. This dynamic is also evident within state legislatures, where discipline reform has become a priority for many Republicans as well as Democrats.

⁴For federal-level recommendations, see, e.g., Advancement Project, et al. (2011, March). *Federal policy, ESEA reauthorization, and the School-to-Prison Pipeline*. Retrieved from <http://advancementproject.org/sites/default/files/Federal%20Policy%20ESEA%20Reauthorization%20and%20the%20School-to-Prison%20Pipeline%20-%202003%2009%2011.pdf>. For state- and local-level recommendations, see, e.g., Advancement Project. (2010, March), 37-40; Youth United for Change & Advancement Project. (2011, January). *Zero tolerance in Philadelphia: Denying educational opportunities and creating a pathway to prison*. Retrieved from <http://www.advancementproject.org/sites/default/files/publications/YUC/20Report/20Final/20-/20Lo-Res.pdf>.

⁵The dynamics of the Pipeline within local communities are far from monolithic. In some localities, schools are foisting these issues on police, prosecutors, and courts; in others, it is the police or prosecutors who are being overly-zealous; and in others there are court systems that are over-stepping.

⁶E.g., social services agencies, mental health providers, community-based organizations, parents/guardians, and students.

⁷See, e.g., www.stopschooltojails.org for information on multi-stakeholder efforts within Denver, CO; Baltimore, MD; Florida; Clayton County, GA; and Birmingham, AL. See also Teske, Steven C. & Huff, J. Brian. (2011, Winter). The court's role in dismantling the School-to-Prison Pipeline. *Juvenile and Family Justice Today*. Retrieved from <http://www.child-dev.com/assets/files/Dismantling%20pipeline.pdf>.

⁸Namely, the inability of multiple agencies to communicate, collaborate, and prioritize effectively.

⁹For example, while some of the goals and outcomes of the Race to the Top Program do not align well with the recommendations made in this paper, RttT nevertheless provides a useful example for how a similarly-structured discretionary grant program can serve as a catalyst for unusual collaboration among stakeholder groups.

¹⁰See, e.g., Advancement Project. (2010, March), 26.

¹¹W. Haywood Burns Institute. (2009, Dec.). *The keeper and the kept: Reflections on local obstacles to disparities reduction and a path to change*, 3. Retrieved from <http://www.burnsinstitute.org/downloads/BI%20Keeper%20Kept.pdf>.

¹²See, e.g., the common practice of using “unofficial” suspensions or expulsions, where students are sent home or removed from school without records being kept.

¹³In this field, that dynamic most often manifests in the creation of small “pilot” programs without good-faith intent to ever expand the model, or investment in programs that can be productive but are limited in their ability to address structural issues, such as mentoring programs.

¹⁴Advancement Project, et al. (2011, March), 3 and notes 3 & 4.

¹⁵Widespread advocacy efforts have greatly expanded understanding of these concerns, and as a result the political consequences for ignoring them have increased. Thus, for example, policymakers are much less likely to preach the benefits of the “zero-tolerance” approach, and more likely to support federal school accountability for graduation rates instead of just test scores.

¹⁶*Feely, K. Collaboration and leadership in juvenile detention reform*, 15. Annie E. Casey Foundation. The Pathways to Juvenile Detention Reform Series. Retrieved from <http://www.aecf.org/upload/publicationfiles/collaboration%20and%20leadership.pdf>.

¹⁷The author has personally been involved with multi-stakeholder collaborations that have had their efforts undermined by police chiefs, prosecutors, superintendents, mayors, teachers' unions, school boards, and school administrators.

¹⁸See, e.g., Schwartz, R. Promoting and sustaining detention reforms, 26-38. Annie E. Casey Foundation. The Pathways to Juvenile Detention Reform Series. Retrieved from <http://www.aecf.org/upload/publicationfiles/promoting%20sustaining%20reforms.pdf>.

¹⁹See *id.*; Feely, K.; Annie E. Casey Foundation. (2009). Using media advocacy to promote detention reform. Pathways to Juvenile Detention Reform Series. Retrieved from http://www.aecf.org/~media/PublicationFiles/JDAI_4_Media.pdf; W. Haywood Burns Institute. (2009, Dec.); PolicyLink, et al. (2011, April). *Promise Neighborhoods: A comprehensive approach to expanding opportunity for all children*. Retrieved from <http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/PROMISE%20NEIGHBORHOODS%20FACT%20SHEET%204.27.11.PDF>; PolicyLink & Harlem Children's Zone. *Promise Neighborhoods: Recommendations for a national children's anti-poverty program inspired by the Harlem Children's Zone*. Retrieved from http://www.acy.org/upimages/H CZ_Plan.pdf; Harlem Children's Zone, et al. (2010, Jan.). *Focusing on results in Promise Neighborhoods: Recommendations for the federal initiative*. Retrieved from <http://www.hcz.org/images/stories/Focusing%20on%20Results%20-%20final%2001%2008%2010.pdf>; Children's Defense Fund. (2009, July). *Summary of the Youth PROMISE Act (H.R. 1064/S. 435)*. Retrieved from <http://www.childrensdefense.org/child-research-data-publications/data/youth-promise-act-summary.pdf>. For the Center for Medicare and Medicaid Innovation, see Section 3021 of the *Patient Protection and Affordable Care Act of 2010* and <http://innovations.cms.gov/>.

²⁰See, e.g., Children's Defense Fund (2009, July).

²¹See Annie E. Casey Foundation. (2009); Schwartz, R., 24-26.

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IMPROVING SCHOOL-JUSTICE PARTNERSHIPS: LESSONS LEARNED FROM THE SAFE SCHOOLS/HEALTHY STUDENTS INITIATIVE

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Schools alone do not have the capacity to plan and implement the wide range of interventions needed to ensure a safe school environment for students. A collaborative approach among education and other community systems can best address the intersecting factors that contribute to antisocial behaviors. The Safe Schools/Healthy Students Initiative, launched in 1999, is a comprehensive approach to help ensure children feel safe in their schools. This paper elaborates on efforts by grantees and their partners to improve coordination and service integration with an emphasis on the successful reintegration of students into schools.

In response to a series of deadly school shootings, the Safe Schools/Healthy Students (SS/HS) Initiative was launched in 1999 by the U.S. Departments of Education, Health and Human Services, and Justice as a comprehensive approach to address the mental, emotional and behavioral health of students and ensure that children feel safe in their schools. Since

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1999, the SS/HS Initiative has awarded over \$2 billion in grants to more than 365 urban, suburban, rural and tribal school districts in partnership with their local mental health, law enforcement and juvenile justice agencies. The Initiative's goal is to foster integrated systems that create safe and respectful school climates and consequently promote the mental health of students and prevent violence and substance abuse.

BACKGROUND

In order to achieve this goal, the grant requires schools to take an empirically driven public health approach. Grantees begin by reviewing data and talking with community stakeholders to identify the most urgent local needs. Grantees then select and implement best practices and evidence-based interventions that match those needs. Participating schools and local agencies coordinate and integrate their services, enabling them to respond quickly and to remain engaged. Grantees are required to continually monitor progress in meeting their goals and to use data to make modifications to improve their SS/HS project.

Today, there is still a critical need for the SS/HS Initiative. During the 2007–2008 school year, 85 percent of public schools in the United States recorded that at least one crime occurred at their school (Dinkes, Kemp, Baum, & Snyder, 2009). In 2007, for the first time in 15 years, school-aged youth were more likely to report violent crime victimization occurring at school than away from school. Students who are exposed to high levels of violence and aggressive behaviors at school, as either victims or witnesses, are more likely to disengage from school and experience clinical levels of mental and emotional disorders than students who experience either no or low levels of violence at school (Bowen & Bowen, 1999; Janosz et al., 2008).

The SS/HS Initiative is grounded in research that shows prevention efforts are most effective when schools, families, community organizations and health care systems work together to implement programs and activities to help students (Epstein, 1995; Weissberg, Kumpfer, & Seligman, 2003). Coordination among agencies and community groups helps to overcome barriers to cooperation, foster agreement and shared decisionmaking among stakeholders and fill gaps in services (Corrigan & Boyle, 2003). Coordination can also help service providers reduce expensive duplication of services, which can lead to the creation of new, expanded, or more intensive services for clients (Trutko, Bailis, Barnow, & French, 1991; Holcomb, Seefeldt, Trutko, Barnow, & Nightingale, 1993). Along with these service enhancements, providers working in collaboration often develop referral processes that

reduce costs, map and coordinate resources, implement information-sharing procedures and train resource coordination teams (Adelman, & Taylor, 1999; McMahon, Ward, Pruett, Davidson, & Griffith, 2000; Trutko et al., 1991; Holcomb et al., 1993).

Schools alone do not have the capacity to plan and implement the wide range of interventions needed to ensure a safe school environment. A collaborative approach between education and other community systems—where all the collaborating partners benefit—can best address the myriad intersecting factors that contribute to antisocial behaviors among young people (Trutko et al., 1991; Holcomb et al., 1993). For example, schools can benefit from the insights and expertise of local law enforcement agencies to prevent, prepare for, or respond to threats, incidents of violence, or crisis and emergency situations. Similarly, when schools collaborate with the juvenile justice system, it becomes easier to provide an academic environment tailored to the individual needs of adjudicated students, while coordinating prevention and intervention services. Schools should also partner with families and community organizations to model appropriate behaviors, engage in problem-solving and break the cycle of violence among school-aged youth.

EXAMINING THE IMPLEMENTED ACTIVITIES

This paper examines activities implemented as a result of the collaboration between schools and other community partners in the SS/HS grantee sites. The SS/HS Initiative is grounded in research and hypotheses that collaboration among schools and other community partners will lead to improvements in student safety and health. In particular, SS/HS partners will collaborate to implement coordination and service integration activities that in turn are expected to decrease violence in schools and reduce student substance use. These activities are also expected to support the mental health of students by preventing problems before they start and providing comprehensive services to address identified mental health concerns among students.

METHODS

The Substance Abuse and Mental Health Services Administration funds a cross-site, national evaluation of the SS/HS Initiative to document collaborative processes and systems and track program outcomes. The current national evaluation contract encompasses 175 grantees in 5 successive cohorts that received grants beginning in 2005. The evaluation design integrates quantitative

and qualitative data to measure collaborative activities, programs and services and indicators of school safety and student well-being. The data are drawn from a variety of sources such as site visits, interviews, web-based surveys and Government Performance Results Act (GPRA) data reported by grantees.

Data on coordination and service integration are primarily derived from the evaluation's Project-Level Survey and interview data. The Project-Level Survey is a web-based survey administered to project directors that solicits information on planned or implemented activities; programs and operations related to the SS/HS grant elements; information on decisionmaking, coordination and service integration; and sustainability. Onsite and telephone interviews are conducted annually with the project director, partners and other relevant stakeholders, focusing strongly on partnership activities, structure and operations. These interviews also include questions about changes to near-term outcomes such as coordination and service integration activities and long-term outcomes such as sustainability.

The national cross-site evaluation employs an array of analytic techniques to test hypotheses that collaboration among partners will lead to coordinated and service integration activities, which in turn will better serve students and ultimately improve their safety and mental health. This paper examines one critical component of that program theory, the coordinated and service integration activities implemented in the SS/HS grantee sites. Descriptive statistics were used for the survey data, and qualitative analyses of the interview data provided rich descriptive information on grantees and their operations to supplement and enhance these data. Qualitative analyses involved categorizing the observations, contextualizing through narrative reports and summarizing cross-site findings. At least two evaluation team staff members have been responsible for qualitative coding to ensure data are thoroughly reviewed. Double-coding enables assessment of potential issues with interrater reliability.

RESULTS

SS/HS grantees initiated many coordinated services and system changes to address safety concerns and violence in their schools. School Resource Officers (SROs) and Probation Officers (POs) provided joint trainings on bullying, gangs and emergency planning to students, parent and other SS/HS partners. Some sites incorporated the Balanced and Restorative Justice (BARJ) framework into their schools to address violence in the school district. BARJ is a collection of practices and philosophies used in transforming school environments by recognizing that in every conflict there are opportunities for

problems to be repaired and relationships to be strengthened (Bilchik, 1998). Many sites have created committees and task forces to address safety concerns, with participation by partner agencies, parents and community members. Together, committee members have selected programs, assisted with writing policies and procedures and organized trainings and conferences. Key findings from Project-Level Surveys revealed an increase between baseline and follow-up in the percent of grantees implementing coordination and service integration among partners and systems, including:

- More than 98 percent of grantees established processes to identify and link students to needed services.
- More than 70 percent of grantees fielded service delivery teams that included members of diverse systems.
- More than 60 percent of grantees established a cross-agency, treatment monitoring information system.

EXAMPLES OF COORDINATION AND SERVICE INTEGRATION ACTIVITIES

A thorough examination of the qualitative data revealed grantees were improving their collaborative relationships, coordinating activities and efforts and improving service integration through four main outlets: referral relationships, case management services, information-sharing procedures and resource sharing (see Table 1 for specific examples of SS/HS activities).

Referral Relationships

The SS/HS Initiative enabled grantees to develop and clarify referral procedures for services such as diversion programs for at-risk or adjudicated youth. The referral procedures were often communicated during trainings with school personnel and partners. Additional benefits of revamped processes included improved communication among partners, the ability to follow up on referred students and shorter waiting times for services.

Case Management Services

Case management and other multidisciplinary teams fostered better communication and working relationships among professionals, eliminated gaps in service, avoided service duplication and provided more comprehensive services than would have otherwise been possible.

TABLE 1. *Examples of SS/HS Coordination and Service Integration Activities*

REFERRAL RELATIONSHIPS

- Streamlined or standardized referral processes to clarify the communication process
- Standardized referral forms for all partner agencies
- Referral to less punitive options rather than directing students exhibiting problematic behaviors to the courts for adjudication

CASE MANAGEMENT SERVICES

- Care coordination teams, typically consisting of a school administrator, counselor, care coordinator, juvenile officer and SRO
- Assignment of a juvenile court liaison/case manager to work with adjudicated youth and families by offering a range of services
- Assigning an at-risk intervention specialist to help students successfully transition from juvenile custody to their neighborhood schools

INFORMATION- SHARING PROCEDURES

- Signing agreements to share information relating to out-of-home placements, mental health issues and gang/violence prevention
- Signing a memorandum of agreement vowing to adhere to the same confidentiality policies and procedures
- Tracking students receiving services and sharing data with afterschool club sponsors

RESOURCE-SHARING

- Cross-trainings on topics such as gang awareness, school safety and conflict resolution
 - A truancy reduction program that brought together partner agencies to establish truancy child study teams to eliminate duplication of services and treat students holistically
-

Information-Sharing Procedures

Grantees implemented an array of activities to improve information-sharing across partners and agencies, including information-sharing agreements and policies, database tracking systems, communication feedback forms and memoranda of agreements for confidentiality. Grantees have used databases and shared information across partner agencies to monitor student behavior and coordinate appropriate services. For example, one grantee developed a risk management system, which was used to help track academic, behavioral and mental health issues that may put a child at risk for school failure, mental health disorders, violence, or other problematic behaviors. Development of this risk management system involved the school district along with the

partners, particularly mental health and juvenile justice. Through the system, SS/HS partners were granted access to Department of Juvenile Justice data that were unavailable in the past.

Resource-Sharing

Grantees engaged in a range of resource-sharing activities that helped develop more comprehensive, coordinated programs and services, which involved training partner agencies on screening and referral procedures. Other activities included resource mapping, crisis and emergency planning, and development of multiagency programs, such as mentoring. This resource-sharing was critical as State and local budget cuts provided challenges to the planned implementation of safety and violence prevention programming for grantees. However, required partners contributed what they could as SRO and PO positions were often funded partly or entirely by law enforcement and juvenile justice agencies, respectively. Partnering agencies also applied for grants to help fund safety and violence programs.

CASE ILLUSTRATION

Coordination and service integration occurs at varying levels within and across SS/HS sites. The following example illustrates the importance of collaboration, coordination and resource-sharing among partner agencies in the implementation of the SS/HS Initiative. Faced with high rates of juvenile crime and truancy, the SS/HS partners at one grantee site in a large southern city joined forces to reduce school suspensions and prevent youth involvement in delinquency. With SS/HS support, this multidisciplinary approach has now been implemented throughout the school system, and its core features have been replicated to address other important student concerns.

The suspension and intervention model that has become a central component of the site's SS/HS project was developed by a local collaborative led by the district attorney's office. The model employs a multidisciplinary team and multiagency approach to intervening with children and youth who are suspended or get into trouble at school. The team is composed of representatives from 14 local agencies who review information on students with serious infractions and determine if intervention is warranted. The approach includes: (1) screening and assessment of each child or family; (2) cross-training of staff; (3) development of individualized intervention plans to link students and families to services; (4) case management to monitor the progress of treatment, interventions, or referrals; and (5) assignment of an advocate and single point of contact for each client. Information is shared at interdisciplinary meetings that

include school staff, mental health providers and public health officials. Staff monitor each student/family to ensure that services continue to be provided and to determine if additional interventions are needed. Staff also track data on student outcomes to assess program effectiveness.

Building on the success of the suspension and intervention model, the site's SS/HS partners instituted a similar multidisciplinary approach to address truancy. After investigating best practices in truancy interventions, the local district attorney's office and school district worked with other SS/HS partners to implement a truancy pilot program. The pilot combines features of the site's suspension and intervention model with the early identification and intervention practices that were part of the school district's existing truancy program. Truancy staff in the pilot schools conduct an intake screening with students and refer those who are experiencing issues that may be contributing to their truancy to school social workers for further assessment. In turn, the social workers make referrals for community-based services when appropriate. Parents are involved in the process and are held accountable for their children's attendance. To support the effort, the juvenile court has agreed to increase the frequency of its early warning hearings with students and their families. School and SS/HS staff have facilitated the truancy pilot program by creating procedures to document early warning sessions and home visits, offering training to SROs to increase their awareness about available services and referral processes, and developing a data reporting system to track attendance.

This cross-agency coordination has also contributed to additional resource leveraging. The SS/HS project has capitalized on its success with multidisciplinary programming to obtain funding for other important projects. For example, SS/HS partners implemented a community-based mentoring program with funds from a Department of Justice grant. That grant has enabled the district to expand its mentoring programs and coordinate the efforts of several agencies, and it has facilitated the merging of two local mentoring programs into a single, stronger organization that will offer mentoring services after the SS/HS grant concludes. SS/HS partners have also received federal funding to help local juvenile justice and mental health agencies create specialized mental health services for youth who are supervised by the juvenile court.

While the above example highlights just one grantee's efforts in this area, the summary stresses the importance of developing and enhancing school and community partnerships to meet the growing needs of students and their families with regard to safety and overall well-being.

CONCLUSION

The coordinated and service integration activities described above and preliminary outcomes among grantee sites support the SS/HS program theory. Inherent in the SS/HS Initiative is the cooperation, coordination and integration of programs and activities provided by community stakeholders such as schools, local law enforcement and mental health agencies, and juvenile justice systems to ultimately improve youth outcomes. These efforts by partners to provide a more supportive school environment serve as a model to other communities seeking to address issues of safety and student well-being. The findings presented here suggest that the coordination and service integration activities implemented in SS/HS grantee sites can minimize duplication of services, preserve scarce resources and better identify and serve students at risk for or already affected by violence and substance use. These activities can lead to additional resources and program sustainability as SS/HS Initiative partners continue to work together to achieve safer and healthier schools and communities. The national evaluation will continue to examine relationships between grantee activities, including coordination and service integration activities, in more detail to link these activities and other components of the SS/HS program theory to school safety and other student outcomes.

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TRUANCY MATTERS FOR SCHOOLS AND COURTS: OUR FIRST BEST INDICATOR OF POOR OUTCOMES FOR YOUTH

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As this paper clearly documents, truancy is our first and best indicator that a youth is on the road to dropping out-of-school, being delinquent or using drugs. Truancy is among an emerging group of “evidence-based indicators” that correlate highly with different youth outcomes. The current research does not confirm “cause and effect” relationships between truancy and the bad outcomes, but this does not diminish the importance of adopting truancy as a predictor that requires prevention and intervention strategies. Just as fluctuating fever, chills, and body aches do not cause malaria, they are highly correlated symptoms that require attention, careful examination and intervention. This paper provides a general overview of: risk factors affecting truancy and dropout rates, prevention practices, intervention practices and steps to move from research to practice for schools. Its purpose is to generate awareness on the issue of truancy and to facilitate discussion for schools and courts on how best to engage youth, parents, caregivers and government leaders to produce better practices and outcomes.

Between 1985 and 1994, the number of petitioned truancy status offense cases increased by 67 percent nationally (Butts, Snyder, Finnegan, Aughenbaugh, & Poole, 1996). This trend continued, between 1995-2007, as petitioned truancy cases in juvenile courts increased from 34,100 cases in 1995, to over 57,000 in 2007 (Adams, Puzanchera, & Sickmund, 2010). The literature on predictors of later troubles for youth has clearly identified truancy as one of the early warning signs of a student headed for potential delinquent activity, drug use or educational failure and dropping out (Dryfoos, 1990; Hawkins et al., 1998; Huizinga & Jacob-Chien, 1998; Halfors et.al., 2002; Henry & Thornberry, 2010).

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Over the past 20 years, there has been an increasing national trend toward targeting youth at risk of school failure and juvenile delinquency. The last ten years have seen a significant expansion of research showing the link between truancy and the onset of delinquency, first-time drug use and dropping out-of-school.

The National Center for School Engagement (NCSE) evaluated the seven National Truancy Prevention Demonstration programs funded by OJJDP in 1999 and continuing until 2005. A key lesson from these evaluations was the connection between the status offense of “truancy” and its larger relationship to school engagement. It is possible, through court-based and school-prevention strategies, to get truants back in school. However, they become truant again or drop out-of-school unless specific efforts are made to reengage them in school and support their academic achievement. This finding led the founding of NCSE as it evolved from its prior organization, the Colorado Foundation for Families and Children. NCSE is built on a theory of change that posits that the combination of Attendance, Attachment and Achievement – the 3 A’s – are essential to reducing truancy and promoting school success. These three components are interactive and must be dealt with simultaneously for at-risk students in schools. Students need to attend school, feel some attachment to people in that environment and be able to achieve some success or they usually give up and leave. NCSE has studied truancy and school attendance and has researched the relationships among truancy, delinquency, bullying and dropping out-of-school.

CONNECTIONS TO JUVENILE DELIQUENCY

The research is compelling and makes the case that truancy is probably our first and best predictor of the onset of delinquency. A key finding from a recent State of Washington study confirms this as, “...truancy youth have a high risk of serious negative outcomes, especially dropping out-of-school. Not only are two thirds of ninth grade truant students not likely to graduate with their peers, but nearly one third will be charged with a criminal offense within two years” (George, 2011, p. 38). An analysis of three years of attendance data from the Denver Public Schools (N= 82,000 students) identified a pattern of truancy that peaks in 9th grade, but drops off as the most chronic truants drop out-of-school. Crime data indicate that juvenile daytime crime actually peaks during school hours when students are out school and unsupervised (MacGillivray & Mann-Erickson, 2006). In Contra Costa County, California, police reported that 60 percent of juvenile crime occurred between 8 a.m. and 3 p.m. on weekdays, when children should have been in school (OJJDP/NCJRS, 2007).

The correlation between student failure and delinquency is well established (Hawkins & Lishner, 1987; Smith, 2000; Wang, Blomberg, & Li, 2005; Gottfredson & Hirshi, 1990; Balfanz, Spiridakis, Neild, & Legters, 2003). Truancy has been clearly related to delinquency. In one study, Farrington (1996) found that of the 400 youth in a Cambridge study, nearly half (48%) of truants had been adjudicated delinquents, while only 14 percent of non-truants had been adjudicated. Researchers conducting the Office of Juvenile Justice and Delinquency Prevention study, entitled “Causes and Correlates of Juvenile Delinquency,” identified three pathways to boys’ problem behavior and delinquency. Truancy is an early, and key, step in what they call the “authority avoidance pathway” (Huizinga, Loeber, & Thornberry, 1994).

Data from the Rochester Youth Study, one of the three studies contributing to the “Causes and Correlates” work, show a startling relationship between self-reports of truancy and delinquency. Students who reported skipping classes occasionally were four times as likely as those who reported not skipping to have committed a serious assault and almost five times as likely to have committed a serious property crime. Chronic truants were 12 times as likely to have committed a serious assault and 21 times as likely to have committed a serious property crime as non-skippers (Henry and Huizinga, 2005).

When truancy is addressed, crime and delinquency decrease. A drop in crime occurred when police conducted truancy sweeps in Miami (Berger & Wind, 2000) and St. Petersburg, Florida, (Gavin, 1997). When Tacoma, Washington, implemented its truancy center with truancy sweeps by school resource officers, daytime crime dropped by up to 65 percent during the 30 day periods (NCSE /OJJDP, 2003). The Dallas Police Department successfully reduced gang-related crime by aggressively pursuing truant youth (Fritsch, Caeti, & Taylor, 1999).

CONNECTIONS TO SUBSTANCE USE

Research on the relationship between school success and substance use abounds. Perhaps the best work is drawn from the Adolescent Health Survey of the Centers for Disease Control and Prevention. Blum, Beuhring and Rinehart (2000) found that frequent problems with school work are predictive of cigarette use, alcohol use, weapon- related violence, suicidal thoughts and attempts, and early sexual intercourse. The effects held for the population in general, and for almost every combination of ethnic group and risk factor.

A number of studies have looked specifically at truancy and substance use. Data from the Rochester Youth Study show a clear, linear relationship between truancy and the initiation of marijuana use. Among 14-year-olds, students who reported skipping occasional classes were four times as likely to initiate marijuana use as students who reported never skipping class. Chronic truants were 16 times more likely to initiate use. Data from one study collected in schools, found that even among high school seniors, those who reported being truant had higher rates of marijuana use than those who were not truant (Bachman, Johnston, & O'Malley, 1998). Truancy is associated with increased odds of first-time substance use, and if an adolescent has already begun using, truancy is related to a substantial escalation of use (Henry & Thornberry, 2010). Truant 8th graders were 4.5 times more likely than regular school attendees to smoke marijuana (Halfors, et.al., 2002).

CONNECTIONS TO ADULT CRIME

Chronic truancy clearly leads to high school dropout, and dropouts are greatly over-represented among prison and jail inmates. Bureau of Justice data from 1997 (Harlow, 2003) show that while 18.4 percent of the general population had neither a high school degree nor a GED, fully 41.3 percent of the incarcerated population did not have a degree. By 2002, jail inmates without a degree had risen to 44 percent (James, 2004). Heckman and Masterov (2007) conclude that “one of the best-established empirical regularities in economics is that education reduces crime.” Increasing the high school graduation rate by one percent would yield \$1.8 billion dollars in social benefits, largely a result of preventing an estimated 94,000 crimes in each year (Lochner & Moretti, 2004). A moving in-depth study of death row inmates revealed that truancy, beginning in elementary school, and a continued pattern of failure throughout school, are typical of our most serious criminals (Schroeder et al., 2004).

CONNECTIONS TO HIGH SCHOOL DROPOUT

Each year, five of every 100 high school students drop out-of-school (USDOE, 2009). Over the last decade, between 347,000 and 544,000 tenth through twelfth grade students left school each year without completing high school. Students who drop out-of-school are more likely to be unemployed, earn only 65 percent of the amount earned by high school graduates (a

difference in lifetime earnings of \$200,000), experience higher levels of early pregnancy and substance abuse problems, require more social services, and are more likely to be arrested or incarcerated (USDOE, 2009).

NCSE developed and maintains a web-based data collection system (TRAIN) which is geared toward the accountability needs of truancy reduction programs. TRAIN was initially developed to evaluate OJJDP's National Truancy Demonstration program sites, but is now available to other truancy reduction programs. Data entered by many sites across the country indicate that students served by truancy programs enter those programs with extremely poor grades. Most of the high school students had failed to earn credit for at least one class, and many had fallen behind their cohort, failing, for example, to be promoted from freshman to sophomore status at the end of their first year of high school. Being overage for grade in school has been shown to increase the risk of high school dropout (Abrams & Haney, 2004; Herzenhorn, 2004; Roderick, 1995), even when retentions occur in the early grades. When they occur in high school, the chances of giving up on a degree are even greater. A recent study conducted in Denver Public Schools shows that high school graduates in the class of 2004 had missed an average of 14 days over the school year; dropouts had missed 53 days. Over 25 percent of the original freshman class had fallen behind by at least one year, and affected students reported that poor attendance had been a contributing factor. Graduates averaged a 2.86 GPA (B-), compared with 1.0 (D) for dropouts (Hubbard, 2005).

PREVENTION PRACTICES

Because truancy can result in so many negative outcomes for youth, it is essential to address the issue of absenteeism in school well before it becomes a truancy problem. The key to success is early prevention. New research from a nine city study of excessive early absence in K-1, excused or unexcused, has shown clear prediction of later poor achievement, truancy and dropping out (Chang & Romero, 2008). The study found high correlations between kindergarten absence and first grade achievement for all students, and absence and fifth grade achievement for low-income students. Programs that address excessive early absences before a child is labeled a truant and encourage attendance are critical. Effective preventive strategies that keep youth engaged in school and in the community and demonstrate effective collaboration between the legal and education systems will help prevent truancy and ultimately reduce the number of school dropouts. In doing so, juvenile crime, teen pregnancy and substance abuse may decrease.

A good example of prevention programs that are post-filing but pre-court appearance can be found in the state of Washington in four jurisdictions that are part of the Models for Change Program funded by the MacArthur Foundation. NCSE has worked with King County (Seattle area) for over ten years beginning as one of the first federal OJJDP Model Demonstration sites. Of particular note is their current three-tiered intervention model that begins with a one-time workshop that has good impact in putting truants back on track. If that does not work or is not appropriate, truants attend a community truancy board process to match services with needs to improve attendance and monitor performance. If that is not a fit, then the most intensive third tier is a case management approach is utilized. Truants at all three tiers are often diverted from court (Curtis, 2011).

INTERVENTION—A MODEL PROGRAM

Once students are older or more involved with chronic truancy, intervention programs are needed to get students back on track. These require close cooperation among schools, courts and law enforcement with a lot of monitoring and reporting.

In Pueblo, Colorado, Project Respect is an excellent model truancy intervention program that uses “community advocates” to serve as case managers and attendance monitors that work between the truancy court and the school district. Advocates do home visits and work closely with teachers, principals and parents in bridging the school home and court. Project Respect has significantly improved attendance and also academic achievement in over 60 percent of chronic truants. Advocates are employed by the school district and attend all truancy court hearings for their assigned families and students. The advocates work closely to implement the judges’ orders and truants are seen every two weeks by the court until their cases are resolved (Heilbrunn, 2008).

COMMON THEMES AMONG PREVENTION AND INTERVENTION PROGRAMS

There are several common themes that are essential to any quality service or intervention that including parental involvement, coordinating legal and school system approaches, monitoring and case management.

PARENTAL INVOLVEMENT

The sooner parents become involved in the process and in identifying the causes behind the child's absences, the greater the chances are of improving attendance and learning. When parents and school staff join forces to support attendance, the outcomes improve significantly. Connecting parents with community support or to work with a trained volunteer, or setting up a mediation session can avoid the often adversarial positions that schools and parents often get into around truancy.

COORDINATING LEGAL AND SCHOOL SYSTEM APPROACHES

Involving judges, court personnel and law enforcement in prevention and intervention is important for comprehensive approaches to attendance and truancy as a community response. The more seamless these interactions can occur the better the outcomes. Students and families have a more positive impression of the legal system as one that supports positive youth development as well as sanctions.

MONITORING/CASE MANAGEMENT

Giving chronic truants a case manager to monitor progress and encourage school engagement is often the best response to more complex cases. This combination of support and continuous monitoring helps students connect to available resources and relationships with caring adults that get them on track to high school graduation.

MOVING FROM RESEARCH TO PRACTICE IN SCHOOLS

Over the last ten years substantial research has identified successful methods of improving attendance and school engagement, especially among students at risk of dropout or delinquency (Finlay, 2006). There are, however, barriers in applying the research to practice – barriers that stem first from a limited understanding of how to implement those best practices in ways that make sense locally with policy alignment. Another challenge is addressing all the moving parts to this issue. Two years ago, NCSE developed a tool for schools and school districts called the NCSE AAA Policy and Practice Assessment. It is designed to help school teams assess the extent to which school level practice

follows best practice guidelines for fostering school attendance, engagement and completion and whether actual practice is aligned with school and district policy. It highlights areas in which policy and practice foster or undermine student attendance, attachment and achievement. Information gleaned from the 197 schools which have chosen this self-assessment with expert analysis sheds light on the extent to which best practices are followed. Results reveal surprisingly wide use of problematic practices, several of which are described as examples in Table 1.

TABLE 1. *Prevalence of Several Problematic Versus Best Practices among Schools that have completed the NCSE Policy and Practice Assessment*

Problematic Practice	# Schools	Best Practice	# Schools
Attendance affects grades regardless of mastery	14 high	Grades are based on quality of work and mastery of material.	10 high
Schools do not intervene until more than four absences or “until someone notices.”	25 high 14 middle 64 elementary	Schools intervene after no more than 3 absences.	19 high 18 middle 40 elementary
Common locations and times for bullying are generally <i>not</i> identified and monitored	6 high 3 middle 4 elementary	Common locations and times for bullying are generally identified and monitored	37 high 29 middle 98 elementary
Students may be suspended for truancy	25 high 15 middle 18 elementary	Students may <i>not</i> be suspended for truancy	18 high 16 middle 80 elementary
Schools have assessed the extent of minority over-representation in disciplinary actions within the last couple of years.	19 high 13 middle 67 elementary	Schools have assessed the extent of minority over-representation in disciplinary actions within the last couple of years.	24 high 18 middle 35 elementary

As Table 1 shows, it is not uncommon for schools to suspend students for truancy, further reducing the time they spend in class, increasing the extent to which they fall behind and further detaching students from school. Several of these schools even reported that truancy ranks among the three most common reasons for out-of-school suspension. Clearly, this hints at a widespread lack of awareness of what research shows to be a better practice. These steps can move the practices forward at the level of school buildings as they design, adapt and implement the necessary changes to assure that students attend regularly, feel attached to the school culture and believe that they can achieve academically and graduate from high school.

CONCLUSION

By preventing poor attendance and later truanancies, schools could play a major role in reducing dropouts and delinquency. Courts too can play a preventive role if involved early when youth come in as status offenders and can be re-connected to schools in a coordinated manner using “sticks and carrots” approaches to assure good attendance, attachment to school, family and community, and school achievement. For this to happen, courts and schools must plan together for a more seamless and immediate response to youth who give these early signs of falling off the track to high school graduation. Even youth who have been detained for delinquent acts need to have improved connections back to school or to appropriate educational alternatives. All of this requires courts and schools and juvenile services to plan together and share resources to make for the best interventions. The prize for all these efforts is high school graduation and the opportunity for positive life outcomes for our youth.

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AMERICAN BAR ASSOCIATION POLICIES ON KEEPING CHILDREN IN SCHOOL

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This paper provides an historical overview of the policies, approved by the American Bar Association House of Delegates, related to students in public schools, with a focus on issues related to disciplinary actions, truancy interventions, court interventions, and attention to special student populations and the importance of school continuity. The overview begins with a summary of two Juvenile Justice Standards volumes from the 1970s, never approved by the ABA but predictive of approaches taken later in official ABA resolutions. The paper highlights 14 formal ABA policies, with a major focus on three interlocking 2009 resolutions on high quality school education, keeping students in school and aiding them in their return to school following an interruption in their education.

Schools and Education (Ballinger Publishing Co., 1982) was one of 23 Juvenile Justice Standards volumes developed and approved by the Institute for Judicial Administration-American Bar Association (IJA-ABA) Joint Commission on Juvenile Justice Standards in the late 1970s. It was, however, never presented to the ABA House of Delegates. Yet certain of its principles, and the substance of some of these standards, can be found in policies later adopted by the ABA and discussed herein, including the comprehensive right-to-education policies adopted in 2009.

That 1982 volume addressed the right to education, included two cross-cutting sections on safeguarding student/parent consent and waiver of rights, and addressed the limits of school regulatory power (along with provisions on privacy and counseling confidentiality). It also included sections on specific topics, including free expression, student disciplinary procedures, disciplinary sanctions, student interrogation, and student searches. While the standards refrained from making certain restrictions on state authority in other contexts

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fully applicable to schools, the introduction and commentary also found that the context of schools and the educational process argued against the effectiveness and legitimacy of coercive methods and police involvement.

These standards sought to keep youth school-related issues from leading to formal court adjudication of students. For example, they called for school efforts to work with parent and child to eliminate or reduce recurrent or extended truancy and then said that if these efforts were not successful the school could petition the court for the sole purpose of developing, with student and parent participation, a supervised plan for attendance. They called for states to compel attendance up to a specific age (but no older than 16), while not allowing juveniles to be taken into custody by police or school officials by reason of school absence alone. Parents' failure to cause the child to attend school could not, according to the standards, be the sole basis for a child neglect petition, but could be used where such a petition had been filed on the basis of other evidence. It also could not be the basis for any criminal or other action against the parent except as noted above.

Based on recognition of the importance of continuity in a child's education, disciplinary sanctions would be limited to those reasonably necessary to accomplish legitimate school objectives that could not otherwise be reasonably effectuated – including a ban on corporal punishment (as opposed to necessary restraint), a ban on exclusion from regular school attendance longer than a school year, and limiting both the reasons and length for exclusions only to that which was immediately necessary to eliminate threats to persons, property or the educational process that cannot otherwise be addressed. Equivalent education would also have to be provided during the period of any such exclusion.

For both searches and interrogations, the standards it articulated for police officers in schools would also be applicable to school officials when acting at the invitation or direction of, or in cooperation with, a police officer or for the purpose of discovering and turning over evidence to the police that might be used in criminal proceedings against the student. Interrogations or searches leading to information resulting in criminal charges would be rebuttably presumed to meet that criterion. The standards for interrogations and searches for evidence that might result in school disciplinary action would be lower, though above the minimum requirements articulated by the courts – consistent with the standards' commitment to achieve basic principles, even when they went beyond what was then legally required. In order to minimize disruption of the educational process, there were also standards designed to have police interrogations take place away from school whenever possible. Information gathered in violation of the standards could not be used in criminal or serious school disciplinary procedures.

The IJA-ABA Joint Commission on Juvenile Justice Standards also completed a set of standards relating to *Noncriminal Misbehavior*. Again, these were never presented to the ABA House of Delegates for approval as formal ABA Policy. The principal objection, from within the juvenile court community, was that these standards would have resulted in a premature “de-judicalization” of juvenile status offenders, without assurance that alternative, accessible and appropriate services for these youth were created and used. Although there was, within the “black letter” Standards, attention focused on runaways and juveniles in conflict with their families, school-related infractions including truancy were not addressed.

However, in this over 30-year old volume, the Commentary to Standard 1.1 had two pages on truancy and other school issues, which began, “School attendance is properly the business of the schools, not the courts.” The *Commentary* went on to reflect a commonly held reform view that referral of these cases to the court was a disservice to the child, as the “ultimate sanction for failing to obey the court’s order, in most jurisdictions, is commitment to the same system of state facilities charged with the maintenance and treatment of the most violent and predatory youthful offenders.” It went on to say that “the existence of the truancy jurisdiction in the juvenile court cuts against the school’s assumption of its own responsibilities and the improvement of its programs [and that as long as that jurisdiction remains] the schools have a ready dumping ground for their problem children.”

The *Commentary* also addressed disobedience to school authorities. It stated that the existence of “school insubordination” jurisdiction encouraged the “off-loading of problems that ought to be handled by the schools.” Further, it said that court jurisdiction in these situations “dampens the school’s responsibility.” Finally, it said that if school misbehavior did not rise to the level of a crime, “it should not be susceptible of being dealt with by the juvenile court.”

It was not until over three decades later that the ABA approved a detailed Policy on diversion of juvenile status offenders (described below). That August 2007 resolution was generic, however, in that it did not separately address the various types of juvenile status offenses, but rather called for diverting all types of status offenders from court jurisdiction, using as alternatives community-based early intervention and pre-court prevention services and treatment for both youth and their families. It was the clear intent of this resolution to help avoid the placement of status offenders in residential institutions, especially locked facilities, no matter what their particular “status offense” was or how many times it was repeated.

THE 80s AND 90s—FIRST EFFORTS TO ADDRESS CRITICAL EMERGING ISSUES WITHIN EDUCATION

The ABA has made it a priority to recognize and address significant issues that present barriers to youth access to a quality education in an environment that encourages learning and development of positive socialization skills. In the 1980s and 1990s, different entities of the ABA put forward a number of resolutions to address the needs of special populations of children who are often victims of school policies resulting in the over-criminalization of youthful behavior, stigmatization associated with children receiving special education services and exclusion of children with HIV/AIDS. In each instance, the ABA enacted Policy that focused on encouraging access to quality education for children in safe, stigma free environments.

In the mid-1970s, Congress had passed the *Education for All Handicapped Children Act* in response to litigation and research demonstrating that disabled children were not receiving a free and appropriate public education in the least restrictive environment. The Act was later renamed the *Individuals with Educational Disabilities Act* (IDEA)ⁱⁱ and it has been reauthorized multiple times with strengthened protections for children with educational disabilities.

In the mid-1990s, the ABA approved two policies, one on student mediation and the other on advancing and protecting the rights of children with educational disabilities. An ABA Policy from 1995 strongly encouraged use of mediation as a more effective way to resolve disputes and reduce the likelihood that children would end up in the juvenile delinquency system or pushed out-of-school. In addition, it acknowledged that mediation teaches children socialization skills that can be used outside of the classroom. This ABA Policy encouraged school systems to develop and incorporate a curriculum on dispute resolution for all students and the use of school-based peer mediation programs. The Report that accompanied this Policy noted that using “metal detectors, hiring full-time police officers, frisking students as they enter school and/or locking all doors to the school building during school hours” is probably not the most effective way to deal with school violence. Rather, it is stated that teaching students the skills to learn how to resolve disputes peacefully is a more effective method to reducing school violence.

Another Policy advanced by the ABA to curb youth involvement with the juvenile delinquency system is found in its initial 1995 support for youth courts. Children often have their first interaction with the juvenile delinquency system by committing a status offense, an action that would not be a crime if committed by an adult. The ABA recognized that many youth who come before the court are first-time offenders better served using

an alternative process to help provide children a safe place to address the underlying issues that result in their committing a delinquent offense.

In 1996, the ABA encouraged Congress to re-authorize the IDEA. The Report accompanying the resolution recognized two issues that remain important 15 years later: (1) that “racial minorities were disproportionately placed in special education classes, thus achieving a certain level of *de facto* segregation” and (2) “schools were using disciplinary procedures as a mask for avoiding the duties and difficulties of educating children with disabilities.”

But despite the fact that the ABA’s policies, supported by extensive research, encouraged development of school policies that stressed positive behavioral development in children and restraint in use of out-of-school or sanctions or formal court involvement, jurisdictions across the country continued too often to use policies that criminalized children.

OPPOSING “ZERO TOLERANCE” AND BEYOND

The last decade was, in many ways, conflicted about how to stem what has been called the “school-to-prison-pipeline.” One aspect of this was that many schools were transformed into environments where “criminal behavior” or infractions of school rules, no matter how minor, was intended to be immediately and severely addressed. Too many students were being quickly extracted from schools and sent to juvenile court for truancy, school fights, mouthing off in class or other disruptive behavior in a shift from earlier school practices that would not have involved the police or the courts. However, the ABA was prescient enough to advance a number of policies to address the fallacies with “zero tolerance policies” that pushed children out of the schoolhouse and into the courthouse. In February 2001, the ABA stated that “zero tolerance” policies should be done away with because they took all discretion away from schools to use judgment informed by the particular circumstances of each student before involving them in the juvenile delinquency system.

As a special initiative of then ABA President Karen Mathis, school exclusion and its impact on youth were issues that rose to the forefront when the *ABA Commission on Youth at Risk* was established. Beginning in 2006, the Commission has looked into a variety of issues that bear upon school-based services and education initiatives. Several have been previously described. As a prelude to the Commission’s involvement with these issues, in August 2006, under the formal sponsorship of the Colorado Bar Association and with the support of the *ABA Presidential Initiative on Youth at Risk* that Karen Mathis had created (later to become a permanent ABA Commission), the

ABA approved Policy calling for adequate and appropriate services being “readily available to at-risk youth and their caretakers.” In this resolution, the ABA called upon governments to develop and adequately support “permanent interagency and other youth resource coordination mechanisms” to make services available, including “through the schools.” Importantly, the resolution called for meeting these objectives “while protecting youth rights to confidentiality and privacy” and that such services should be available “without involvement in juvenile justice or child protection systems.”

The focus of this Policy was youth ages 13 to 19 years who were “at-risk” of entering juvenile and criminal justice systems. It was the first child/youth-focused ABA Policy to address the importance of government support for “evidence-based programs.” It was not, however, the first time the ABA called for child and youth services to be delivered through professional collaborations. The Report accompanying this resolution noted that the intent was to avoid intrusive government agency and court intervention altogether when requested solely to obtain services for a youth. It noted that children and families found themselves under court jurisdiction for truancy and other problems, “further confusing the appropriate entry point for service delivery and coordination.” The Report highlighted “wraparound” services, “systems of care,” strength-based services and a positive youth development approach to services, all of which should be available without any need for intrusive government agency or court intervention.

ABA Policy has also addressed school-related issues affecting several special populations. In August 2004, a Policy focused on homeless children and those placed by public agencies in out-of-home care. It called for these children to have prompt access to appropriate special education and related services and interagency collaborations on improvement of these children’s school access. It further encouraged that the child’s grade level performance, school records and other relevant education information be provided to children’s temporary caretakers, and it urged lawyers and judges to promote these children’s uninterrupted educational access. In August 2007, an ABA Policy focused on youth in foster care, in particular youth “aging out” and transitioning from the foster care system. Among its provisions was a call to “ensure all foster youth are afforded the same rights to and support of educational attainment – including enrollment, educational stability, and school continuity – as homeless youth have under federal law.”

At the 2011 ABA Midyear Meeting, there were two resolutions passed that addressed children with behavioral problems at school and their ability to stay in school and out of court. The first was a reaffirmation of the earlier (1995) ABA Policy endorsing peer-driven youth or teen courts. The way the new

resolution defined these, it specifically included processes that diverted youth in trouble from juvenile court petitions or proceedings. That is, to avoid any formal juvenile court involvement. The Policy indicated that referrals to youth court programs should be made by police, prosecutors, probation departments and the courts themselves, and the accompanying Report acknowledged that across the country common youth court referral sources were schools. However, neither the resolution nor the accompanying Report mentioned truancy or school-related disciplinary actions as behaviors resolved through youth court proceedings. Yet conceptually, youth courts present opportunities to help assure that referred youth stay in school and hopefully out of the court system entirely.

The second resolution, referred to above, was a February 2011 Policy on bullying, cyberbullying and youth-on-youth sexual and physical harassment. As awareness of bullying began to increase, in August 2002, the ABA first recognized there had to be a balance between creating a safe environment where students can learn and teachers can teach, but where schools would not overly criminalize bullying behavior. That Policy called for creation of anti-bullying programs for children, families and teachers. Less than 10 years later in 2011, the ABA revisited its approach to this issue and additionally addressed cyberbullying that took into account how technology can be used to bully, harass or create an unsafe learning environment for children. Both the 2002 and 2011 policies recognized that school responses needed to be tailored to the individual situation, so that school disciplinary policies did not needlessly result in school exclusion. Both policies emphasized programs and policies that encouraged positive socialization skills.

The 2002 ABA Policy had urged development of court diversion programs so that bullies were not unnecessarily stigmatized. The 2011 expansion was even clearer on this point, recommending that school policies “discourage (1) inappropriate referral of youth to the juvenile justice system for acts of bullying and student-on-student harassment, and (2) inappropriate use of expulsion and out-of-school suspension for such acts.”

In the accompanying Report there was over a page of background information supporting the proposition that school policies of suspension or exclusion, “three strikes” or zero tolerance are ineffective in disciplining child bullies. Noting that nearly 50 percent of high school students self-report to have bullied a classmate with the past year, it said that pushing these students out-of-school would have enormous adverse consequences. It quoted a 1994 Centers for Disease Control report that youth not in school were more likely to smoke cigarettes, drink alcohol, use drugs and engage in sexual intercourse. The Report stated that severe school-exclusion punishments against bullies

might discourage victims and bystanders from reporting bullying incidents. Also cited was a study reported in a 2010 issue of *Psychology in the Schools*, in which 213 school psychologists concluded that while suspension and exclusion were the most frequently implemented anti-bullying strategies, they were also the least effective.ⁱⁱⁱ

2009 – A COMPREHENSIVE FRAMEWORK FOR POLICY AND ACTION

In August 2009, the ABA adopted a set of three policies on the right to quality education that provide a comprehensive framework into which various other policies can be integrated – one on the right to a high-quality educational program, one on the right to remain in school, and the third, for youth who have left or been pushed out-of-school, the right to resume their education in a quality program. The Reports for these three policies recognize their interrelationships: Delivering on the right to a high-quality academic program that engages students and meets their learning needs is central to boosting school completion; as the Report on the right to remain in school notes, “the vast majority of students who drop out have first experienced academic problems, become disengaged from their classes, and fallen far behind in the credits they need to graduate.” At the same time, staying in school should assure a student that they will receive a high-quality education which meets their individual needs. Similarly, remaining in school and getting a strong education are strongly linked to staying out of the juvenile and criminal justice systems. At the same time, for those who leave school, including those who end up in these systems, it is critical to eliminate barriers to resuming their education in a high-quality setting.

POLICY TO PROMOTE THE RIGHT TO A HIGH-QUALITY PROGRAM

As described in the Report, calls for various federal, state, and local legislative and administrative actions that result in the following:

1. Clear articulation of the core elements of that right in terms of the quality education that children and their families should be able to count on [in areas such as curriculum, instruction and attention to individual learning needs];

2. An expectation that schools will provide those elements of the right to each child and will have the resources to do so;
3. Consistent focus, in the various functions of district-, state-, and federal-level education agencies on ensuring that schools are providing those elements of a quality education;
4. Better implementation and enforcement of those provisions of existing law that advance these elements of quality education [including provisions of Title I of the Elementary and Secondary Education Act that require schools, with state and district support and oversight, to provide many of those elements]; and
5. A stronger voice for youth and their parents at the front end in shaping the nature and quality of the educational programs they get [including better implementation of Title I's requirement that the plan for providing each element be developed jointly by the school and the parents].

The Report highlights attention needed to implementation problems in relevant provisions of Title I, civil rights laws and other laws, and to limitations on remedies for denial of quality education.

POLICY TO PROMOTE THE RIGHT TO REMAIN IN SCHOOL

This seeks to change the policies and conditions which often lead children to drop out-of-school. It targets the following three common methods of discouraging school attendance:

1. ***Reduce “push out” – policies and practices that have the by product of increased dropouts***

The ABA Policy calls for changing such things as the failure to count all students, including those who have left school or been retained in grade, when determining academic proficiency rates for school accountability; overreliance on grade retention practices associated with dropping out and failure to ensure that students who must pass tests for promotion or graduation are first provided with the curriculum, instruction, and assistance needed for mastery as required by legal and professional testing standards; failure to address credit and graduation issues for highly mobile students; and age restrictions placed on the right to remain in school.

2. *Reduce “kick out” – suspension and expulsion as a response to discipline problems*

The Policy calls for restricting use of suspensions and expulsions to only those students who pose a threat to themselves or others, because research shows that exclusion is an ineffective method of encouraging school engagement. It also calls for preventive and supportive interventions to resolve problems prior to exclusion from the student’s regular program, strict adherence to full procedural protections against erroneous or unfair decisions in a non-discriminatory and culturally responsive manner, and reducing the impact of any exclusion by limiting its time, providing education during the exclusion and assistance in making up work and in school reintegration.

3. *Reduce “pull out” – the criminalization of school-related behavior*

The Policy promotes school policies to reduce criminalization of truant behavior, disability-related behavior, and other school-related conduct that can be handled within the school’s disciplinary system. Other strategies identified for stemming the detrimental effects of all three methods of discouraging school attendance and completion include, for example, overall creation of a safe, inclusive and engaging school environment and academic program. Such a program would include the elements identified in the right-to-quality education Policy; wrap-around services that provide a range of supports and services, including mental health and counseling services to address the individualized needs of student and family through a community-based, collaborative process; programs and procedures to help parents, students and their representatives understand students’ rights to remain in school; and monitoring, reporting, and accountability for rates of graduation, dropout, truancy, and disciplinary violations, disaggregated by various population groups.

POLICY TO SECURE THE RIGHT TO RESUME AND COMPLETE SCHOOL FOR STUDENTS WHO LEFT OR WERE EXCLUDED

The third Policy seeks to secure for all youth who have left or been excluded from school or are incarcerated **the right to resume and complete their education** in a high-quality, age-appropriate program that enables them

to graduate and prepare for higher education. It calls for enactment and implementation of laws and policies that support that right, along with programs and procedures to help youth exercise that right. This Policy recognizes that students who were excluded from school need a special, national focus to encourage re-engagement in school. This ABA Policy focused on developing a collaborative approach to school re-engagement, particularly for older students, that would bring school districts, community colleges, and the private and non-profit sectors together to provide a range of high-quality options for students to obtain regular high school diplomas and have the opportunity to pursue higher education (including but going beyond reintegration into their home school). For example, it noted that re-enrollment centers can provide support and assistance in helping young people re-enroll in a school or program that is most appropriate for their age and academic level.

URGED BAR ASSOCIATIONS AND ATTORNEYS TO UNDERTAKE ACTION

Finally, recognizing that its policies are not self-effectuating, the ABA, in its right-to-quality education Policy, urged bar associations and attorneys to undertake three types of action: (1) seek improvements in state and federal law to advance the right to high quality education, including administrative and remedies to secure it; (2) represent parents, students and organizations seeking to enforce quality-related provisions of law in administrative and judicial proceedings; and (3) provide community legal education and other assistance to parents, students, community organizations, schools and school systems to aid in understanding and obtaining improved implementation of such laws – i.e., a road map for action.

CONCLUSION

The ABA House of Delegates, which is the policy-setting entity of the ABA, meets twice a year, typically in February and August. Any ABA entity (such as the Commission on Youth at Risk) can sponsor resolutions, and the main sponsoring entity typically writes the background Report to accompany each resolution. As new ideas for law and policy reform emerge related to schools, there are multiple entities within the ABA that would be interested in developing new policy resolutions that support further law and justice reforms related to keeping kids in school and out of court.

The ABA also has the capacity, through its government relations office and other entities, to take action on, and provide support for, school-justice partnerships based on existing policies. For example, this could include supporting new or amended federal, state, or local laws, regulations, or practices that would advance the issues the ABA has spoken out on, as well as opposing those that would undermine the positions that have been taken.

The authors of this paper, all in some way having connections to the ABA Commission on Youth at Risk, welcome the opportunity to learn from the National Leadership Summit on School-Justice Partnerships, being held on March 12-13, 2012 in New York City. In particular, how the ABA might take the knowledge and State Plans that emerge to craft new position statements for the Association, or to help further the goals of these Plans through its own work based on existing ABA Policy. In that effort, the guidance and support of lawyers and nonlawyers, state and local bar associations, and ABA members as well as non-members would all be welcomed.

**AMERICAN BAR ASSOCIATION (ABA) POLICIES
RELATED TO KEEPING KIDS IN SCHOOL AND OUT OF
COURT – 1983 TO 2011 (KEY EXTRACTS)****

1. Bullying and Harassment February 2011
RESOLVED, That consistent with an ABA August 2002 policy, the ABA urges federal agencies, legislators, school officials, and the organized bar to discourage: the inappropriate referral of youth to the juvenile justice system for acts of bullying and student-on-student harassment; and the inappropriate use of expulsion and out-of-school suspension for such acts.

2. Youth Courts February 2011
RESOLVED, that the ABA urges federal, state, territorial, and local governments to create and provide appropriate support for Youth or Teen Courts that, through a peer-driven restorative justice process involving family members, diverts youth from the formal consequences of juvenile court petitions, proceedings, adjudications, or juvenile justice sanctions...

Also, August 1995:
RESOLVED, That the American Bar Association encourages state and territorial legislatures, court systems, and bar associations to support and assist in the formation and expansion of diversionary programs, known as Youth Courts, where juvenile participants, under supervision of volunteer attorneys and advisory staff, act as judges, jurors, clerks, bailiffs, and counsel for first time juvenile offenders who are charged with misdemeanors and consent to the program.

3. Youth Rights to a High Quality Education

August 2009

RESOLVED, that the ABA urges federal and state legislatures to pass laws, and national, state, and local education agencies to implement policies: To help secure the right of every child to a high quality education, including, specifying the elements of that right and fostering its consistent provision to all by schools and local, state, and federal agencies; To improve implementation and enforcement of existing provisions of law and policy designed to enable students to obtain elements of a high quality education; and

To enable and assist students and their parents and their representatives in participating in decisions affecting their right to quality education and in understanding and utilizing existing provisions of law and policy and remedying deficiencies in their implementation and enforcement through administrative and judicial relief.

FURTHER RESOLVED, that the ABA urges state and local bar associations, and attorneys to: Seek improvements in state and federal law to protect and advance the right to high quality education, including the enactment of remedies to secure that right administratively and judicially; Make legal representation available to parents, students, and organizations seeking to enforce provisions of state and federal law related to the right to high quality education, in administrative and judicial proceedings; and

Provide community legal education and other assistance to parents, students, community organizations, schools, and school systems to aid in understanding and obtaining improved implementation of laws that protect and advance the right to high quality education.

4. Youth Rights to Remain in School

August 2009

RESOLVED, that the ABA urges federal and state legislatures to pass laws and national, state, and local education, child welfare, and juvenile justice agencies to implement and enforce policies that: Help advance the right to remain in school, promote a safe and supportive school environment for all children, and enable them to complete school; Limit exclusion from and disruption of students' regular educational programs as a response to disciplinary problems; Provide full procedural protections, including the opportunity to have representation by counsel in proceedings to exclude students from their regular education program, appropriate provisions of due process in other school disciplinary processes, and implementing disciplinary procedures in a fair, non-discriminatory and culturally responsive manner; Reduce criminalization of truancy, disability-related behavior, and other school-related conduct; and Establish programs and procedures to assist parents, caregivers, guardians, students, and their legal representatives in understanding and exercising student rights to remain in school.

FURTHER RESOLVED, that the ABA urges federal and state legislatures to legally define, and assure standardized on-going monitoring, reporting, and accountability for, measuring graduation rates, school dropout rates, school truancy, and disciplinary violations resulting in student suspensions and expulsions, with data disaggregated by race, disability and other disparately affected populations, and ensure that no group of students is disparately subjected to school discipline or exclusion.

5. Youth Rights to Return to School August 2009

RESOLVED, that the ABA urges enactment and implementation of statutes and policies that support the right of youth who have left school to return to school to complete their education in high-quality, age appropriate programs. FRUTHER RESOLVED, that the ABA urges the enactment of laws and policies that establishes programs and procedures to encourage and assist parents, students and their legal representatives in understanding and exercising student rights to resume their education.

6. Diversion of Juvenile Status Offenders August 2007

RESOLVED, that the ABA urges state, local, territorial, and tribal jurisdictions to pass laws and support policies and programs that divert alleged juvenile status offenders from court jurisdiction that:
...mandate the development and implementation of targeted evidence-based programs that provide juvenile, family-focused, and strength-based early intervention and pre-court prevention services and treatment to alleged juvenile status offenders and their families.

7. Youth Transitioning From Foster Care August 2007

RESOLVED, that the ABA encourages bar associations, judges, and attorneys to lead and promote efforts to create comprehensive support and services for youth who age out of foster care (“transitioning youth”) and other former foster youth until at least age 21, and urges amendment of applicable law, and court and child welfare practices, to...
...Ensure all foster youth are afforded the same rights to and support of educational attainment – including enrollment, educational stability, and school continuity – as homeless youth under federal law
...Mandate the maintenance, appropriate sharing, and timely transfer of all necessary education records relating to school progress, attendance and placement by all agencies, including providing a copy of records to transitioning youth.

8. Education of Homeless Children

August 2007

RESOLVED, that the ABA urges Congress to amend Subtitle VII-B of the McKinney-Vento Homeless Assistance Act as follows: To clarify that the Act applies to all children and youth in foster care; To significantly increase funding to support the school stability, enrollment, attendance, and success of all eligible children and youth, including the newly eligible population of all students in foster care, with particular focus on improved funding mechanisms to support transportation to keep students in their school of origin when in their best interest to do so; To strengthen and enhance provisions of the Act seeking to improve and stabilize the education experiences of eligible students; To enhance the expanding role of State Coordinators and McKinney-Vento local liaisons through additional resources and training.

FURTHER RESOLVED, that the ABA urges Congress to amend Title I, Part A of the Elementary and Secondary Education Act to ensure that its programs support the academic achievement of all McKinney-Vento eligible students, including students experiencing homelessness and students in foster care.

FURTHER RESOLVED, that the ABA urges amendment of other federal, state, territorial and tribal laws and court and child welfare practices to promote the stability and continuity of education for all students in foster care and students experiencing homelessness by supporting appropriate student placement, prompt school enrollment, attendance, and educational success.

Also, August 2004:

RESOLVED, that the ABA supports uninterrupted educational access and stability for homeless children and youth as well as children and youth placed by public agencies in out-of-home settings.

* * *

FURTHER RESOLVED, that the ABA urges lawyers, judges and leaders of the organized bar to seek changes in law, policy, and practice that will help remove impediments to the uninterrupted educational access of children and youth who are homeless as well as children and youth in residential, foster, and kinship care, and will help assure prompt provision of appropriate education services, including special education services where needed. These legal system professionals should work closely with state and local education agencies.

9. Greater Access to Evidence-Based and Coordinated Services for At-Risk Youth August 2006

FURTHER RESOLVED, that the ABA urges federal, state, tribal, territorial, and local governments to develop and adequately support permanent interagency and other youth resource coordination mechanisms to help assure that at-risk youth and their caretakers receive timely and effective services through...schools

10. School Violence Prevention February 2004

RESOLVED, that the ABA encourages federal, state, territorial and local governments to adopt legislation that promotes school violence prevention education, instruction, awareness training and programs for children, parents, teachers and school administrators;
FURTHER RESOLVED, that the ABA encourages lawyers to support school violence prevention education in schools and community settings by volunteering time after having received any necessary training or contributing resources to promote programs that help prevent violent acts by children through encouraging smart decisions and timely, appropriate resolution of conflict.

11. School Discipline “Zero Tolerance” Policies February 2001

RESOLVED, that the ABA supports the following principles concerning school discipline: Schools should have strong policies against gun possession and be safe places for students to learn and develop; In cases involving alleged student misbehavior school officials should exercise sound discretion that is consistent with principles of due process and considers the individual student and the particular circumstances of misconduct; and Alternatives to expulsion or referral for prosecution should be developed that will improve student behavior and school climate without making schools dangerous; and
FURTHER RESOLVED, that the ABA opposes, in principle, “zero tolerance” policies that mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the students history.

12. Support for Reauthorization of the Individuals With Disabilities Education Act February 1996

RESOLVED, That the American Bar Association supports reauthorization of the Individuals with Disabilities Education Act, or enactment of similar legislation, that guarantees children with mental or physical disabilities a free appropriate public education in the least restrictive environment, and opposes efforts to eliminate, weaken, or circumvent such legislation.

FURTHER RESOLVED, That the American Bar Association encourages lawyers, judges, and state and local bar associations to make available legal services to ensure that children with mental or physical disabilities are not deprived of a free appropriate public education in the least restrictive environment, supports inclusion in the Individuals with Disabilities Education Act or similar legislation provisions that permit individuals to pursue claims through mediation, and supports attorney's fees provisions in federal legislation that help ensure legal assistance for children with disabilities who seek to obtain or continue free appropriate public education.

**13. School-Based Dispute Resolution
and Peer Mediation Programs**

February 1995

BE IT RESOLVED, that the ABA recommends and encourages school boards and school administrators to incorporate, into their elementary through high schools, curricula on dispute resolution for all students and school-based peer mediation programs.

14. Students and HIV/AIDS

August 1989

BE IT RESOLVED, that...A student should not be excluded from school because of known or perceived HIV status....

NOTES

** The full text of individual Resolutions, and their accompanying Reports, can be obtained by contacting: ctrchildlaw@americanbar.org. The Reports contain a great deal of important background detail and references that would be useful to system reform advocates.

REFERENCES

¹Public Law 94-142 (1975), amended by and now known as the Individuals with Disabilities Education Act, Public Law 101-476 (1990).

²20 U.S.C. §1400 et seq., most recently amended by the Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446.

³Report accompanying Resolution 107A, February 2011, pages 3-4.

⁴20 U.S.C. §6301 et seq., most recently amended by Public Law 107-110, Sec. 101 (No Child Left Behind Act of 2001).

Howard Davidson, JD, has directed this Center since its 1978 inception. He directs the Washington DC-based Center that provides training, technical assistance, consultation, law and policy development assistance, and materials to aid lawyers, judges, and others to improve child protective interventions. The Center operates the National Child Welfare Resource Center on Legal and Judicial Issues, a program supported by the U.S. Children's Bureau, as well as many projects focused on children and youth in foster care. He has worked in the field of child welfare law for 38 years, and has authored a wide range of materials addressing child abuse and neglect legal issues.

Keri Nash, JD, served as Counsel for the Racial Justice Initiative and was responsible for managing the day-to-day operations of the Initiative. It was created to advance a novel social advocacy and litigation strategy to address disproportionate minority contact in the juvenile delinquency, child welfare and special educations systems. At the Initiative, she spearheaded three legislative hearings focused on the juvenile justice system in Pennsylvania, co-authored several scholarly articles, made presentations before national organizations and developed a nationwide network of juvenile justice system advocates and reformers in support of the Initiative's strategy.

Paul Weckstein, JD, is co-director of the Center for Law and Education which works to advance the right to quality education for low-income students across the country, including those who are court-involved. He has served on the ABA's Commission on Youth at Risk (where he currently serves as a liaison), and played a lead role in the development of the ABA's 2009 policies on the right to quality education. He has taught at both American University and Harvard University.

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**A SPECIAL THANKS TO OUR SUMMIT PARTNERS
FOR SHARING THEIR VALUED TIME AND EXPERTISE**

 <p>American Association of School Administrators</p>	 <p>American Bar Association's Commission on Youth at Risk</p>	 <p>Casey Family Programs</p>
 <p>Conference of Chief Justices</p>	 <p>Conference of State Court Administrators</p>	 <p>Maurice A. Deane School of Law Hofstra Law</p>
 <p>Juvenile Law Center</p>	 <p>Legal Defense Fund</p>	 <p>National Alliance of Pupil Services Organizations</p>
 <p>National Association of State Boards of Education</p>	 <p>National Center for Juvenile Justice</p>	 <p>National Center for State Courts</p>
 <p>National Council of Juvenile and Family Court Judges</p>	 <p>Office of Elementary and Secondary Education, U.S. Department of Education</p>	 <p>Public Catalyst</p>

**AND, WITH SPECIAL GRATITUDE TO OUR SUMMIT SUPPORTERS
FOR MAKING THE SUMMIT A REALITY**

 <p>The Atlantic Philanthropies</p>	 <p>The California Endowment</p>	 <p>MacArthur Foundation</p>
 <p>Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice</p>	 <p>Open Society Foundations</p>	 <p>Skadden Arps</p>

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